

**PRESERVING THE SUBMERGED AND COASTAL MARITIME HERITAGE  
OF THE UNITED STATES**

A Dissertation

by

ALEXIS CATSAMBIS

Submitted to the Office of Graduate Studies of  
Texas A&M University  
in partial fulfillment of the requirements for the degree of

DOCTOR OF PHILOSOPHY

August 2012

Major Subject: Anthropology

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Approved by:

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**ABSTRACT**

Preserving the Submerged and Coastal Maritime Heritage of the United States.

(August 2012)

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Chair of Advisory Committee: Dr. Kevin J. Crisman

The United States is a nation founded upon a maritime heritage that allowed for the early colonies to form, trade, expand their frontiers and defend themselves. The material remains of this legacy are dispersed across the continent in inland waters, along coasts, and in the depths of the sea. This dissertation aims at presenting a structural overview and assessment of efforts designed at preserving, enhancing, and learning from the material remains of this maritime heritage.

The study reviews national and state laws and regulations that apply to such resources, which together create a mosaic of preservation mandates. Discussion of the legal framework is enhanced through incorporation of current issues and examples, and leads to a better understanding of the research element of the study based on a maritime heritage questionnaire distributed to over 100 organizations nationwide.

The maritime heritage questionnaire serves as the fundamental original research component of the dissertation, and through it this overview incorporates input from



organizations in the public sector, universities, museums, non-profit organizations, avocational groups, and cultural resource management firms. These diverse perspectives offer insights into the current state of the field, identify legislative or other gaps, and suggest areas where efforts need to be redoubled in order to preserve the nation's tangible connection with its maritime past.

Together, the legislative overview and professional stakeholder input lead to a set of proposals through which the preservation of the nation's submerged and coastal maritime heritage resources can be enhanced.

## **DEDICATION**

To my family  
and to the sea in all of us

## ACKNOWLEDGEMENTS

In concluding a journey that began more than a decade ago, when I first applied to the Nautical Archaeology Program of Texas A&M University, I have many things to be thankful for, and many people to hold in gratitude. Reaching this stage was not an easy task and without the support of friends, colleagues, and advisors, may have well been an insurmountable one.

I would like to warmly thank and acknowledge all those who mentored, supported, challenged, trusted, questioned, enabled, pushed, and patiently awaited. I have learned so much more than can be represented in a dissertation and owe much more than a degree. Most importantly, I leave knowing I take with me valuable relationships that grew throughout my time at Texas A&M University.

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**NOMENCLATURE**

AA	Antiquities Act of 1906, as amended
ACHP	Advisory Council on Historic Preservation
ASA	Abandoned Shipwreck Act of 1987
AHPA	Archeological and Historic Preservation Act, as amended
ARPA	Archaeological Resources Protection Act of 1979, as amended
CZA	Coastal Zone Management Act of 1972, as amended
EEZ	Exclusive Economic Zone
HPF	Historic Preservation Fund
HSA	Historic Sites Act of 1935, as amended
MPA	Marine Protected Area
MHQ	Maritime Heritage Questionnaire
NPSOA	National Park Service Organic Act of 1916
NCPTT	National Center for Preservation Technology and Training
NCSHPO	National Conference of State Historic Preservation Officers
NEPA	National Environmental Policy Act of 1969, as amended
NHPA	National Historic Preservation Act of 1966, as amended
NMSA	National Marine Sanctuaries Act of 2000, as amended
NMHA	National Maritime Heritage Act of 1994, as amended
NRHP	National Register of Historic Places
NTHP	National Trust for Historic Preservation

SHPO	State Historic Preservation Officer
SLA	Submerged Lands Act
SMCA	Sunken Military Craft Act
THPO	Tribal Historic Preservation Officer

## CHAPTER I

### INTRODUCTION: A SURVEY OF THE FIELD

#### **THE ROLE OF SUBMERGED AND COASTAL MARITIME HERITAGE**

The United States is a nation founded upon a maritime heritage that allowed for the early colonies to form, trade, expand their frontiers and defend themselves. The material remains of this legacy are dispersed across the country above and below the waterline, telling the story of the colonists who crossed the Atlantic, the merchants who traversed the Mississippi, the engineers who constructed the Erie Canal, the soldiers who defended the coastal forts protecting New Orleans, and the fortune-seekers who rushed their way to Alaska in search of gold.

The utility of preserving and studying this submerged and coastal cultural heritage, however, is not always readily apparent among the citizenry. Save for certain sections of the population, it often seems that the public is unacquainted with maritime archaeology and the need to preserve this important heritage; this is particularly true for submerged cultural heritage sites which are often out of sight. During a time of fiscal constraints, this legacy is perceived as having little to no recognizable contribution to the general wellbeing of the nation. In an ever-more competitive world, where culture is becoming capital, where museums are viewed more as commercial enterprises and less

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This dissertation follows the style of the American Anthropologist.

as cultural guardians or social instructors, and where business models permeate the public and non-profit sectors, one may question to what degree the fields of heritage preservation and maritime archaeology might find support. Adding to this uncertainty, speculation turns to concern about the future of maritime cultural heritage and archaeological research at large in this dawning century.

At the same time, archaeology is ubiquitously present, and efforts to preserve cultural heritage sites have been intensifying over the last fifty years. International agreements institute World Heritage Sites, prohibit the illegal trade of antiquities, require multinational cooperation on the protection of submerged cultural resources, and care for cultural property even in times of war (UNESCO 1971; UNESCO 1972; UNESCO 2001; UNESCO 2011b). On a national level, countries have been implementing antiquities laws since the early 19<sup>th</sup> century (e.g., Greece [1834], Italy [1872], France [1887]) (Watson and Todeschini 2007:28). Museums are adopting codes of ethics to curb the acquisition of artifacts that were illicitly recovered, though some do thus reluctantly (Watson and Todeschini 2007:303). Academic institutions across the world have established maritime archaeology programs or similar areas of study. Governments and engineering firms have maritime heritage specialists on staff. Tax funds – though some would say not enough – are nevertheless expended on the preservation of associated material culture. How can the worth of something with utility so challenging to convey be recognized, though not always fully supported, on such a widespread level? And why should maritime cultural resources be viewed as a public good to be preserved?



The key to this paradox lies in three terms familiar to any archaeologist – context, provenience, and relevance – and perhaps the future of the field of heritage preservation depends on them. To place things in context, it is important to stress that archaeological investigation of material heritage does not function in a vacuum but is supported by a number of associated fields in its goal of shedding light on our collective past. The ability of archaeology itself to contribute to this effort is intrinsically tied to these related disciplines. Provenience and relevance, in turn, play an important role in demonstrating how this more holistic historical approach is itself of value to the world. Through understanding this value, the need to protect cultural resources at large becomes evident, and efforts to do so more germane.

***Context: The Study of Material Culture as Part of a Holistic Historical Approach***

Archaeology does not mean the same thing to all people; it is considered an art by some, and promoted as a science by others. Although uniform in terms of professional standards, it is often a part of the larger field of anthropology in the United States and a discipline within the humanities or historical studies in many parts of Europe. This disparate perception stems, to some degree, from the historical context in which archaeology developed in North America in contrast to the European continent. Differing notions of private rights versus the public good, subjects of study, as well as the particular sub-field of archaeology under consideration further affect views. While recognizing the developments that have led to these disparate approaches and perspectives, it is important to note that the ultimate objective of archaeology

everywhere remains to illuminate the past human conditions and experiences. This objective is shared by many of archaeology's related fields, including historic preservation, history, as well as cultural and physical anthropology. Along Braudelian lines, the study of material culture should therefore be viewed as part of a larger holistic historical approach (Braudel 1950:37).

Placing things in this light allows for material culture's utility to become more apparent. History, for example, starts and stops with the earliest written record; pre-history, which in parts of the world can extend to recent times, often falls in the realm of archaeology. History suffers from a number of well-known biases: the objectives of the creator or sponsor of the historical record, the predispositions of an author, the themes of the times that affect that author, the under-representation of minority groups or defeated foes, the general focus on events and personalities as opposed to everyday life, determination of which written records were deemed worthy of keeping, and, naturally, the effects of time and changing societal values on the subsequent preservation of those written records. Similarly, when research overlaps with archaeology, cultural anthropology also suffers from its own biases, whether these pertain to the human subjects of study, ethnocentric, cultural, or linguistic biases, general trends of the times, or other factors. Physical anthropologists, on the other hand, often cope with a scarcity of data, interpolated data, tentative techniques or cultural biases. This is not to argue that these fields do not produce valid and important scholarship, nor that archaeology is free of many of the same biases. However, archaeology's reliance on the scientific study of what is often a more plentiful material record affords it some advantages and allows it to

complement, supplement, and, at times, reject many of the other sources of information. The material record often reflects many details of past existence that escape historical mention, such as the wrecking of ships. It may offer a more concrete chronology and represent more strata of society, more parts of everyday life, more disparate sources of data, and more views of the same story, even during the well-documented colonial era (Deetz 1996). Archaeology has the ability to extend continuously through periods of time where gaps may exist in the written record. Its very reliance on scientific methods and theory set it apart from many of its sister fields in the humanities. Furthermore, the fact that the archaeological record of the past is constantly expanding through the discovery of new sites is in contrast to what in many cases is a relatively static primary written record. Hence, archaeology fills the gaps, provides new insights, and reaches people, interactions, cultural exchanges, environmental impacts, economic and social trends, and a whole host of other past activities that would otherwise remain unknown. In its ability to study and learn from a great number of sources in a growing number of ways, archaeology is uniquely situated within the range of scholarly fields that study past humans, cultures, and behaviors.

Maritime archaeology, in turn, should be viewed in the context of archaeology as a whole. Having benefited from many of the methods, theories and lessons learned through the growth of terrestrial archaeology, maritime archaeology was in a position to make notable contributions from early in its development. Underwater sites, which form only a part of the maritime archaeological spectrum, represent an entirely new concentration of information that was previously inaccessible – sunken craft and

inundated structures. These include material evidence for, among other things, shipboard life, commodities, trade patterns, environmental adaptation, inter-cultural contact, naval architecture, port construction, navigation, naval arms, ordnance, and war at sea. Sea travel, which has been fundamental to the development of the human species and instrumental in exploration, trade, cultural exchange, and war, can now be understood in a way that was previously not possible.

On a separate level, underwater sites often produce a whole spectrum of artifacts that are rarely, if ever, found (or found intact) on terrestrial sites due to different site formation processes and disparate preservation/degradation rates. In the anoxic or suboxic environment that surrounds many submerged cultural sites, organic artifacts made of wood, leather or other plant material are preserved to a much greater extent than in most terrestrial sites. The until-recent inaccessibility of the majority of these sites means that there has been no re-using or re-smelting of artifacts and no razing or reconstructing of the sites themselves, all practices that frequently limit our understanding of material culture and sites located on land. Intact artifacts that are usually found degraded and fragmented on terrestrial sites are commonly associated with submerged cultural sites. Not only do such artifacts strike the imagination and push forward public education initiatives, but, for researchers, these artifacts often provide stylistic and dating comparanda that are otherwise non-existent. The very fact that a shipwreck represents an event that occurred at a unique point in time means that in the case of many submerged sites stratigraphic data are collected not to distinguish between time periods but rather to establish the location of an artifact in relation to others and to

the site as a whole. The artifacts of a wreck site, provided the site remains undisturbed, are by definition contemporary, at least as far as time of loss is concerned. In terms of dating sequences for land and underwater archaeologists alike, this information is invaluable when reconstructing chronologies and patterns of development. When placing inundated or submerged sites in context within larger maritime cultural landscapes, the ability to undertake a systemic analysis emerges, allowing for a greater understanding of a society as a whole.

Maritime archaeology, when placed in the context of archaeology at large, is therefore of ample use for studying human interactions with maritime environments. Similarly, within a grander holistic historical approach, archaeology and material culture have an important role to play in accessing types of information that are otherwise lost to time. With the importance of maritime archaeology and the physical remains of past becoming clearer within their immediate context, the question invariably turns to whether the study of the past human experience itself is of essence to the world at large.

***Provenience: Where Do We Come From?***

In today's society, which is based on a pace of technological development unrivaled in human history, the value of anything other than the most recent past is somewhat unclear. What could 17<sup>th</sup> century construction techniques teach a modern civil engineer? How can a sextant, widely used just fifty years ago, be relevant to the average waterman of today? How could a naval battle fought under sail have anything to do with current tactical naval operations? Even World War I is fading from memory and represents a

bygone era to many. That is not, however, necessarily the case with the other great war of the 20<sup>th</sup> century. Based on the author's recent experience with the Naval History & Heritage Command (NHHC), World War II naval history is *gaining* interest among the general public. The fact that the theatres of war are within living memory must certainly be a factor; that the effects of the war have directly touched the present lives of many, another. A third, more intriguing reason may be that the generation which fought the war is slowly vanishing, spurring people to look back and learn about their own personal history while the sources of that knowledge are still with us. The same underlying desire to learn of one's own immediate past is manifested in the popularity of services such as *Ancestry.com*, currently digitizing a large collection of documents in the Department of the Navy's Library (personal communication with Navy Library Director, May 16, 2011), or in surveys conducted in search of WWII submarines such as USS *Wahoo*, USS *Grunion* and USS *Flier* by descendants of those who served aboard these vessels (Logue and MacKimmon 2007; U.S. Department of the Navy 2006; U.S. Department of the Navy 2008; U.S. Department of the Navy 2010).

Curiosity about the past, about one's own provenience, is widespread among the public. After all, curiosity about the surrounding world is among humankind's most basic traits – “where did I come from?” is one of our most enduring questions. The difference, however, in the public's interest between WWI and WWII is that the latter is still tangible, and thus still relevant. The utility of archaeology (and its scholarly context) is that it can make the intangible tangible. Whether it is successful in doing so is determined in part by how relevant it can make itself, and by how well it can

demonstrate to today's public that the past has shaped, and continues to shape, our world. Relying on people's curiosity about their individual or communal past is not always enough to secure a base of support for archaeology. Neither is simply collecting and studying information derived from material culture. If that information is not disseminated, or not disseminated in a manner that the general public can understand and form connections that lead to relevance – say between WWI and WWII – then archaeology's contribution is questionable. The concept of making something of the past relevant to the present leads one to invariably consider how the present in turn can influence the future. Providing an answer to the other immemorial question – “what lies ahead?” – may actually be the area where the study of the past is of most use.

***Relevance: What Lies Ahead?***

The often-used phrase “Those who don't know history are destined to repeat it” may ring somewhat hollow today given how fast the rate of progress has been in recent years. The reason, one could argue, is that people fail to see the relevance between the past and the future. This may be because crucial historical details elude public awareness or because those details are so foreign to many today that connections cannot easily be made. There are two remedies that can lead the past (and therefore maritime heritage) to be of greater utility to the world. The first is to present information about the past in a way that demonstrates its relevance; the second is to focus archaeological or historical studies on material that *is* of relevance to present day.

The former is a skill that archaeologists are adopting more and more often, driven by grants and awards that focus efforts on public outreach and education. Archaeology, after all, is inextricably tied to the public good and to the public purse, something that a large percentage of professional stakeholders understand well, as will be illustrated in the following chapters. Universities are often supported through public funds and endowments. Cultural resource management firms have a job to do because the public has supported laws in favor of historic preservation. State and federal archaeologists are tied directly to taxpayer funds. In order to allow for this support to continue and grow it is evident that the public needs to be convinced of the value of archaeology, and this argument has to in large part be based on the concept of relevance.

Public education, particularly of school groups, is a very powerful tool in this respect as students draw in family members who learn along with them (personal communication with U.S. Navy Museum, May 16, 2011). Trying to explain to a child the importance of the past is sometimes among the most challenging endeavors for heritage specialists. It is also among the most useful as all pretexts, complex concepts, and convoluted words necessarily melt away, leaving the core of an argument exposed. In such instances, professionals must present information in a way that either demonstrates how something impacts the child or group of children directly, or how it impacts something that that individual or group cares about (a family or community, a principle, one's country, etc.). The same focus on relevance holds true in the grander scheme of things when competing with vital societal functions for resources. Why, for example, should the U.S. Navy care about archaeology and its shipwrecks? Because



through these the Navy can develop insights into naval strategy and engagements, protect the sites of its lost sailors, bring its community of enlisted men and women closer together through providing inspirational leadership examples, capture the public's imagination, and potentially increase recruitment in the process.

Donny Hamilton, in addressing 2011 Society of Historical and Underwater Archaeology Annual Meeting participants, noted that excavating an insignificant site costs just as much as excavating a significant one (Agbe-Davies, et al. 2011). The question of what is significant was not addressed in detail during his plenary lecture given time limitations and the main topic of the presentation. It is, however, key to the present argument. Relevance is often, though not always, a determining factor of significance. While the past is unlikely to repeat itself in a literal way as conditions, civilizations, and specific circumstances change, humankind in its development tends to encounter the same types of problems, trends, processes, and situations. War, economic cycles, inter-cultural relations, and environmental challenges have and will continue to be with us. The usefulness of the past, therefore, comes from learning how people reacted to similar conditions and the outcomes and consequences of those actions. Through focusing on, for example, archaeological sites that contain information on how humans interacted with their local and regional environment, or with environmental and climatic change itself, we can be more informed about similar decisions we face today. In an age of heightened environmental sensitivity, this subject has broad appeal among the public; it is, by definition, significant. The same can hold true for subjects such as public versus private good, cultural change, inter-cultural exchange, human diversity and

evolution, religion, and war – all processes and key trends that are important to people of today. In contributing to these present discussions, archaeology becomes relevant and provides a tangible benefit to society. Humans learn by example, and the past is full of lessons to be learned. Without the ability to fundamentally understand the past, how can a society's present condition be judged? Without knowing where it stands, how can a society know when it is making progress?

It would be presumptuous to assume that heritage specialists can know the direction research may take them or all the lessons a heritage site may hold prior to investigating it. As a consequence, one cannot know exactly what “relevant” information can be learned from a site. The overall argument, therefore, is not that all archaeologists have to focus their work on the issue of the day, such as climate change, and chase after current trends. One could argue that this is both unrealistic and poor scholarship. Furthermore, a large part of the archaeological research carried out in the United States is a result of compliance laws and regulations, in which case sites are encountered based on happenstance of location, not research priorities. The argument presented here is that archaeologists *need to be aware of* current trends, issues, even commemorative events, and when appropriate consider either tailoring the presentation of their data to address current needs, or evaluate subjects of study and research in light of a site or focus that beyond being archaeologically important carries relevance today. In this manner, mere curiosity turns to support and simple appreciation to active backing. Archaeology, historic preservation, and the encompassing historical research context must constantly prove its utility to the world by proving its relevance. In turn, through proving its

relevance, it is allowed to prove its utility. In the process, one hopes, it provides some provenience for us all.

### ***The Case for Preserving Cultural Heritage***

Although thus far the discussion has focused on the utility of archaeology and its scholarly context, it is critical to stress that material culture itself is the actual source of knowledge about the past. Much like historians read and interpret the written word, archaeologists and heritage specialists read and interpret artifacts. It is the combination of the two, as James Deetz makes so clear in *In Small Things Forgotten*, which allows for a more comprehensive picture to emerge.

The commonly used term “cultural resource” demonstrates the ingenuity of historic preservation advocates in their attempts to protect material culture. The word “culture,” by definition, implies communal traits that distinguish a particular group, thereby imbuing the word with pertinence to the descendants of that group. “Resource” is itself an interesting term as it often implies exploitation and a use. The term’s origins, however, become clear when one realizes that the most important historic preservation law in the United States, the National Historic Preservation Act (NHPA), passed in near tandem with the country’s preeminent environmental law, the National Environmental Policy Act (NEPA). Cultural resources were hence equated with natural resources. Both held value, intrinsic and aesthetic, and, in the terminology of the latter, the former were fragile and non-renewable. Just as the environment was seen as a communal responsibility of the state to preserve, the same perspective was officially adopted for

cultural heritage. Without the physical remains, the cultural resources themselves, archaeologists and heritage specialists would lack access to their source of knowledge. Choosing to preserve them was and remains a decision that a society makes as a whole.

Ethical reflection, Maarleveld (2011a:917) states, is a feature or even a condition of any contemporary human society or self-defined group. A country's laws are often seen as a reflection of a society's ethics, or what a society considers good and evil. Given the plethora of laws, international agreements, court cases, and treaties in place, it would seem the main philosophical divide between whether cultural heritage is communal and worth preserving or whether it may be exploited for private purposes has been settled. This, however, is not the case.

Ethics do not carry universal validity and neither do laws. It is important to remember that something of "heritage value" to one group or nation may carry no such value to another. As heritage preservation frameworks have been set up within nations independently of each other, areas between them, such as the high seas, are marred by competing notions of ownership, rights, and responsibilities. In 2007, the need to protect cultural resources at sea remained so pressing that Hall (2007:97) declared, "heritage, on the brink of extinction, is for sale". In this case, once more using an environmental metaphor, Hall was referring to wrecksites that are at risk from looters in parts of the world that have not implemented legislation to preserve underwater cultural heritage. The same concerns, however, can pertain to the cultural heritage of countries that actively engage in protecting their patrimony, such as the Kingdom of Spain. The case of *Nuestra Señora de las Mercedes* is a clear example of the complications and

jurisdictional issues that arise when a site is located in international waters (Abend 2008). Concepts of historic preservation have not developed in a corresponding manner among nations with disparate economic, social, and political priorities. In this opaque arena and vague international framework, private individual economic interests have at times managed to supersede the interests of the majority, whether legally or not. The scale of antiquities looting, whether from terrestrial or maritime sites, has been revealed in recent times by investigative journalists such as Peter Watson (2007) as devastating. Along with the material culture, knowledge about the human experience is irretrievably lost. Yet, as this study will demonstrate, one does not need to venture to the international arena to experience a vastly disparate treatment of maritime heritage resources, and in particular submerged cultural resources. The case for preserving these sources of knowledge for the public good remains to be convincingly made.

Sunken vessels complicate matters because they were originally constructed to transcend cultural and political boundaries; the ocean was, and remains, the great unifier. Geologist Charles Lyell (1997:322) stated as early as 1832 that “it is probable that a greater number of monuments of the skill and industry of man will, in the course of ages, be collected together in the bed of the ocean than will be seen at one time on the surface of the continents”. Lyell not only expressed the perceived magnitude of maritime heritage sites, but also referred to the skill and industry of humanity - to a common heritage. It is in the oceans where heritage preservation principles will continue to be debated and issues of accessibility and public ownership further pursued.

Here and elsewhere, archaeologists and historic preservationists cannot unilaterally impose their more conservative views on cultural heritage without a broader consent among stakeholders, interest groups, and the general public. As will be discussed below, the NHPA does not preserve heritage sites; it requires that those among them potentially eligible or eligible for the National Register of Historic Places be considered when federal undertakings might affect them. Stakeholders consult and mitigate any negative effects and take the positions of all interest groups into consideration. This is why public outreach has been, and continues to be, so vital to the preservation movement, both in the passage of stronger preservation mandates, and in the execution of those in place.

Historic preservationists do not stand alone, as evidenced by the interlinked development of appreciation for natural and cultural resources. Finding such links and partnering with stakeholders for common benefit and the public good is crucial to the future of maritime heritage preservation. Building up the concepts of context, provenience, and relevance have and hopefully will continue to generate support among the public for such efforts. What is needed more than anything for such a message to take hold and to advance a national policy aimed at preserving coastal and submerged cultural resources is for maritime heritage specialists to promote a coherent, consistent, and clear message to the public. As will be demonstrated throughout this study, at present such a message is lacking, undermining the overall effort. Any discussion of future preservation aspirations, however, depends on a thorough understanding of the current state of the field.

## **A SURVEY OF THE FIELD**

This dissertation will examine the current efforts to preserve submerged and coastal maritime heritage resources in the United States through conducting a state-of-the-field assessment that encompasses the views of organizations representing the public, social, and private sectors. Framing the discussion will be a review the complex applicable legal mandates that apply to historic preservation and maritime heritage sites across the country and off its shores. An analysis of the survey results capturing organizational input and perceived legislative gaps will form the basis of concluding recommendations aimed at enhancing preservation efforts in the future.

While this survey takes the breadth of submerged and coastal material maritime heritage resources into account, it does not address the equally important customs, skills, and seafaring traditions associated with the nation's maritime heritage. Wherever "maritime heritage resource" is used, it is therefore meant to refer to the material remains of a maritime nature, whether above or below water, that carry with them a cultural value. Historic ships, shipwrecks, shipyards, light houses, wharfs, docks, locks, canals, waterfronts, maritime cultural landscapes, and even aircraft wreck sites compose only a small part of this maritime heritage. Given the diverse nature of this heritage, there are a great number of stakeholders that affect and are affected by these resources, and an equally extensive legislative context. This dissertation will endeavor to reflect the roles and inter-relationships of those stakeholders that have an active role in preserving and researching maritime heritage. Though recognizing the instrumental role of public education and awareness, and the intertwined relationship between industry, commerce,

development, environmental groups, and heritage preservation, the focus of this study will be on organizations within the existing maritime heritage preservation framework that advocate on behalf of maritime cultural resources. It is therefore important to note that stakeholders such as the general public and the salvage community will be considered only indirectly.

### ***Survey Methodology***

To capture the activities, impact, and influence of the various components that form the maritime heritage preservation framework, this dissertation depends heavily on the Maritime Heritage Questionnaire (MHQ) utilized to solicit input directly from engaged organizations. The MHQ (Appendix C) is composed of 30 questions and required respondent organizations to identify their primary scope, staffing levels and expertise, funding sources and reliability, research practices, public outreach efforts, major initiatives, legislative efforts, areas of concern, and their views on the future of the field. It is divided into five sections addressing basic organizational information, supporting data, research and resource management activities, legislative and policy issues, as well as accomplishments and challenges.

The MHQ was designed as an online survey in order to simplify the data-collection and analysis process, and to encourage participation. The survey itself was hosted by SurveyMonkey ([www.surveymonkey.com](http://www.surveymonkey.com)), a website selected based on a number of process-related features that were expected to increase response rate. SurveyMonkey was considered secure in terms of data integrity as it carries TRUSTe,



McAfee, and VeriSign certifications. It was also flexible in that surveys could include questions whose answers were in the form of bullets, tables, or lists, allowing for additional information where necessary. This provided for answer standardization particularly suited to the quantitative data the MHQ aimed to collect, though it also enabled the collection of qualitative data reserved for the more complex areas of questioning. It was expected that respondents would find it easier to select a pre-determined answer from a list than to type an original answer, therefore increasing overall completion rates. An additional feature that made SurveyMonkey appealing was that respondents did not have to create a username and password to complete the survey, thereby further facilitating the response process. Participants were forwarded a customizable link via e-mail (in this case <https://www.surveymonkey.com/s/maritimeheritage>) and could simply access the website and begin completing the MHQ. The limitation this feature imposed upon respondents, however, was that the MHQ could not be incrementally completed in phases, but rather had to be completed in a single sitting. Given the lack of a username and password, respondents could not save their answers in the system and return to them at a later time.

On the analysis side, SurveyMonkey provided for a simple and intuitive interface in reviewing responses and even allowed for the surveyor to directly edit particular responses, something done in a very limited number of occasions with the express permission of the respondents. The application also visually represented the resulting responses in the form of charts and often compiled quantitative data. Groups of respondents could be filtered based on selected criteria, allowing for analysis of trends.

Furthermore, the software provided the means through which to download completed surveys individually and to present them in various formats. In this instance, completed responses are provided in Appendix E. Overall, except for the requirement to complete responses in one sitting, as a survey application, Survey Monkey enabled data to be amassed and reviewed fluidly, without observable failures. It is likely that the survey program achieved the objective of increased response rates for which it was selected.

Prior to officially launching the MHQ, informally completed surveys by members of a focus group indicated that completion times would range between 30 to 50 minutes. Recognizing the substantial investment in time and effort required by such an in-depth survey and the potential this raised for incomplete responses, the author offered to provide respondents with a copy of the *Oxford Handbook of Maritime Archaeology* in appreciation, if an organization indicated it wished to receive one. Serving as a co-editor of the volume, the author was in a position to acquire copies of the volume in bulk and at a substantially reduced rate. As the volume was recently published and covers a broad range of subjects, it was expected to be of interest to a wide number of respondents.

The vast majority of organizations were contacted via e-mail during May and November 2011 and invited to participate in the online survey in the course of two-week windows. The timing of the invitations was arranged so as to avoid the summer field season which was expected to hinder a number of organizations from being able to provide responses. Approximately two-thirds of respondents provided feedback during the initial May 2011 window. Those not in a position to respond to the survey request in May were invited to do so again in November. Additional respondents provided

feedback between those two pre-determined periods, as well as upon individual invitation immediately following the November 2011 window.

The MHQ was designed to solicit responses on behalf of organizations, not individuals, and so respondents were requested to provide answers as representatives of their organizations. In the case of large organizations that included units specializing in maritime heritage, respondents were asked to provide answers that represented their particular unit, rather than their whole organization. No personal or personally identifiable information was intentionally collected, and where respondents inadvertently included such information it has been indicated and removed from the completed questionnaires provided in Appendix E. Questions 2 through 4 have also been removed as they pertained to procedural matters. Respondents were informed that completed questionnaires would be included as an appendix to this dissertation.

### ***Survey Participants***

In total, 105 organizations were identified during the course of 2011 and invited to complete the MHQ (Table 1). They were selected based on having a tangible connection with the preservation of submerged and coastal maritime heritage resources and broadly fall into a number of pre-determined categories (Figure 1). As self-indicated in their responses or otherwise assumed, they include a) federal agencies (18 organizations); b) state agencies (16 organizations); c) universities (20 organizations); d) museums, non-profit research organizations, societies and avocational associations (henceforth museums and non-profit organizations) (29 organizations); and d) firms that are wholly

or in part involved in cultural resource management (henceforth cultural resource management firms) (22 organizations).

In general terms, each group of respondents represents a different set of interests, carries separate responsibilities, and is driven by distinct motivating factors. Management agencies tend to set standards, policies, and are responsible overall for a collection of cultural resources under their purview. Universities may focus on research, museums on public outreach, non-profit organizations on advocacy or avocational practice, while private sector firms on identifying and documenting historic sites of



**FIGURE 1.** *Distribution of organizations invited to participate in the Maritime Heritage Questionnaire by category.*

importance for compliance purposes. Then there are a number of groups that undertake multiple missions or serve a number of purposes. For example, the South Carolina Institute of Archaeology and Anthropology is both part of the University of South Carolina, but also serves as the State Historic Preservation Office (South Carolina Institute of Archaeology and Anthropology 2011). The innovative Florida Public Archaeology Network, on the other hand, is based on university campuses throughout the state but is focused on public outreach, as well as providing assistance to local governments and the Florida Division of Historical Resources (Florida Public Archaeology Network 2012a).

The list of invited organizations should not be seen as all-inclusive; in fact, the full breadth of the field is much larger. A number of federal agencies have responsibility over maritime heritage but have no dedicated office or branch such as the Bureau of Land Management. State agencies range from comprehensive maritime heritage programs such as in Maryland or North Carolina to programs where maritime heritage issues are assigned ad hoc to staff as a collateral duty (or not represented at all). Several universities may offer individual classes in underwater archaeology, though not offer a full course or degree program (e.g., University of Louisville [2012]). Likewise, there are dozens of museums that hold maritime heritage collections, but do not actively engage in research involving maritime heritage resources. Private sector firms that do not normally undertake maritime heritage-related projects may on occasion sub-contract with other companies and thus contribute to the preservation of these resources. It is also likely that organizations whose input would have been important to consider were inadvertently

**TABLE 1.** *List of Organizations Invited to Complete the Maritime Heritage Questionnaire*

Category	Organization	Response	Complete
Federal Agencies	Bureau of Ocean Energy Management, Gulf of Mexico OCS Region	X	
	Bureau of Ocean Energy Management, Headquarters		
	Bureau of Ocean Energy Management, Pacific OCS Region	X	X
	Department of the Army, US Army Corps of Engineers, Savannah District		
	Department of Defense, Joint POW/MIA Accounting Command (JPAC), Central Identification Laboratory	X	X
	Department of the Navy, Naval History and Heritage Command, Underwater Archaeology Branch	X	X
	National Oceanic and Atmospheric Administration, National Marine Protected Areas Center	X	X
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Maritime Heritage Program	X	X
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Pacific Islands Region	X	X
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Channel Islands National Marine Sanctuary		
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Monitor National Marine Sanctuary	X	X
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Papahānaumokuākea Marine National Monument	X	X

**TABLE 1.** *Continued*

Category	Organization	Response	Complete
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Stellwagen Bank Sanctuary	X	X
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Thunder Bay National Marine Sanctuary	X	X
	United States Department of Transportation, Maritime Administration	X	X
	United States National Park Service, Archaeology Program	X	X
	United States National Park Service, Maritime Heritage Initiative		
	United States National Park Service, Submerged Resources Center	X	X
State Agencies	Alabama, Alabama Historical Commission	X	X
	Alaska, Alaska Office of History and Archaeology	X	X
	California, California State Parks, Department of Parks and Recreation	X	X
	Connecticut, Office of State Archaeology, Connecticut State Museum of Natural History		
	Florida, Florida Division of Historical Resources, Bureau of Archaeological Research	X	X
	Georgia, Georgia Department of Natural Resources, Underwater Archaeology		
	Maryland, Maryland Historical Trust, Maryland Maritime Archaeology Program	X	X
	Massachusetts, Massachusetts Board of Underwater Archaeological Resources	X	X
	Michigan, Michigan Department of Natural Resources	X	X
	Minnesota, Minnesota Office of the State Archaeologist	X	X

**TABLE 1.** *Continued*

Category	Organization	Response	Complete
	New York, Office of Parks, Recreation & Historic Preservation, Historic Preservation Field Services Bureau	X	X
	North Carolina, North Carolina State Office of Archaeology, Underwater Archaeology Branch		
	Puerto Rico, Instituto de Cultura Puertorriqueña		
	Rhode Island, Rhode Island Historical Preservation and Heritage Commission	X	X
	Texas, Texas Historical Commission	X	X
	Wisconsin, Wisconsin Historical Society, Maritime Preservation	X	X
Universities	Brown University, Department of Anthropology		
	Clemson University, Warren Lasch Conservation Center	X	X
	Coastal Carolina University, Center for Archaeology and Anthropology	X	X
	East Carolina University, Program in Maritime Studies	X	X
	Florida Public Archaeology Network	X	X
	Indiana University of Pennsylvania, Department of Anthropology	X	X
	Indiana University, Office of Underwater Science	X	X
	Luther College, Classics Department	X	X
	Plymouth State University, Social Science Department		
	Texas A&M University, Center for Maritime Archaeology and Conservation	X	X
	Texas A&M University, Department of Anthropology, Nautical Archaeology Program	X	X
	The George Washington University, Capitol Archaeological Institute	X	X



**TABLE 1.** *Continued*

Category	Organization	Response	Complete
	University of Connecticut, Avery Point, Maritime Studies Program	X	X
	University of Louisville, Liberal Studies		
	University of Maine, School of Marine Sciences	X	X
	University of Miami, Rosenstiel School of Marine & Atmospheric Science, Division of Marine Affairs & Policy	X	X
	University of Rhode Island, Department of History		
	University of San Diego, Division of Social Sciences, Anthropology		
	University of South Carolina, South Carolina Institute of Archaeology and Anthropology	X	X
	University of West Florida, Anthropology Department	X	X
Museums, Non-Profit Organizations And Societies	Advisory Council on Underwater Archaeology	X	X
	American Lighthouse Coordinating Committee		
	Center for Maritime & Underwater Resource Management		
	Cleveland Underwater Explorers, Inc.	X	X
	Council of American Maritime Museums		
	Great Lakes Historical Society	X	X
	Great Lakes Shipwreck Preservation Society	X	X
	Historic Naval Ships Association	X	X
	Institute for International Maritime Research, Inc.	X	X
	Institute of Nautical Archaeology	X	X
	Lake Champlain Maritime Museum	X	X
	Lighthouse Archaeological Maritime Program	X	X
	Maritime Archaeological and Historical Society	X	X

**TABLE 1.** *Continued*

Category	Organization	Response	Complete
	Maritime Archaeology Survey Team, Inc.		
	Maritime Heritage Minnesota	X	X
	Michigan Underwater Preserve Council, Inc		
	Monterey Bay Aquarium Research Institute	X	X
	National Maritime Historical Society		
	Ocean Exploration Trust	X	
	Promare Inc.	X	X
	Rhode Island Marine Archaeology Project	X	X
	RPM Nautical Foundation	X	X
	Ships of Discovery		
	Smithsonian's National Museum of American History	X	X
	Underwater Archaeological Society of Chicago	X	X
	United States Lighthouse Society		
	Waitt Institute	X	X
	West Georgia Underwater Archaeological Society		
	Wisconsin Underwater Archaeology Association		
Cultural Resource Management Firms OR Firms with a Cultural Resource Management Division	Atkins North America, Inc.	X	X
	Azulmar Research, LLC		
	C & C Technologies, Inc. GeoSciences Division	X	X
	CRC, International Archaeology & Ecology, LLC		
	Dolan Research, Inc.	X	X
	Earth Search, Inc.		
	Environmental Services, Inc.		
	Fathom Research, LLC	X	X
	Fugro GeoServices, Inc.	X	X

**TABLE 1.** *Continued*

Category	Organization	Response	Complete
	Geoscience Earth & Marine Services, Inc.	X	X
	L. A. Landry & Associates, Inc.	X	X
	Marine Surveys, LLC	X	X
	Mid-Atlantic Technology and Environmental Research, Inc.	X	
	Panamerican Consultants, Inc.	X	X
	Plateau Archaeological Investigations, LLC	X	X
	R. Christopher Goodwin & Associates, Inc.	X	X
	South Eastern Archaeological Services, Inc.	X	X
	Southeastern Archaeological Research, Inc.	X	X
	SWCA Environmental Consultants, Cultural Resources	X	X
	Tesla Offshore, LLC	X	X
	Tidewater Atlantic Research, Inc.	X	X
	URS Corporation	X	X

omitted, and apologies are extended to the reader for any oversight. Organizations that engage in what are considered professionally unethical practices such as the sale of artifacts for private gain were not included in this research.

What the list of 105 organizations represents is a core group of institutions that are dedicated, in whole or in part, to maritime heritage preservation or research. To various degrees, these institutions employ the services of maritime heritage specialists (whether as staff or as volunteers) and perform maritime cultural resource-related functions on a regular basis. Some offer full classes or degrees in the field and undertake

public education initiatives or advocacy, while others engage in policy development and execute a legal mandate. As an inter-sector, inter-disciplinary grouping has not been previously compiled, this effort cannot hope to be comprehensive. As a whole, however, these organizations represent a fair proportion of the diverse field that aims at managing, researching, preserving, and promoting the nation's maritime heritage. They should be viewed as a strong representative sample of the active nationwide maritime heritage preservation field.

Of the 105 organizations invited to participate in the MHQ, 78 submitted responses, 75 of which were complete, and 27 did not provide responses. The overall response rate was 74 percent, while the completion rate among the organizations that provided a response was 96 percent. It should be noted that a number of the organizations that did not provide responses may have been approached using out-of-date or erroneous contact information. Therefore, the survey methodology may have contributed to not having a greater percentage of respondents complete the survey. At the same time, nearly three-quarters of the organizations invited to participate in the MHQ did respond and this response rate was fairly evenly distributed among the five main categories of respondents as evident in Figure 2 and Table 2.

Of the 78 respondents, 69 indicated an interest in receiving a copy of the *Oxford Handbook of Maritime Archaeology*, amounting to 90 percent of the total respondents. Furthermore, six of the nine that did not indicate an interest in receiving the volume were already in possession of a copy. Overall, this suggests that the *Oxford Handbook of Maritime Archaeology* did indeed serve as the incentive it was hoped to be and

encouraged higher levels of survey completion. It is worth noting though that a number of respondents expressed their willingness to assist with this research regardless of whether an incentive was present or not.



**FIGURE 2.** *Distribution of organizations that responded to the Maritime Heritage Questionnaire by category.*

**TABLE 2.** *Maritime Heritage Questionnaire Response Rates by Participant Organization Category*

Category	Invited to Participate	Responded	Percentage Rate
Federal Agencies	18	14	78 %
State Agencies	16	12	75%
Universities	20	15	75%
Museums and Non-Profit Organizations	29	19	66%
Cultural Resource Management Firms	22	18	82%
<b>TOTAL</b>	<b>105</b>	<b>78</b>	<b>74%</b>

The survey application provided for an unsophisticated means of documenting the total amount of time each respondent required to submit a completed questionnaire. Specifically, SurveyMonkey recorded the amount of time that it took to complete each survey once it had been initiated. As the software required that each submission be finalized in a single sitting, these data provide for a rough measure of time required by respondents to navigate through the five sections of the MHQ. It is important to note, however, that these data are not an entirely accurate representation of this quantity as it cannot be determined whether a respondent was focused exclusively on completing the survey during the requisite time, or whether the survey was one of number of tasks being completed at the same time. There are clear outliers in the data which suggest a particular response was formulated over an entire day in the midst of other tasks. For the most part, however, the duration of time required by a respondent to complete a survey corresponded with the depth and extent of that respondent's answers. Table 3 indicates

representative response times which, barring 5 responses removed from the data set as outliers, averaged 45 minutes per questionnaire and ranged from 10 minutes to 138 minutes. Given that the median response time is 38 minutes, with the mean-median discrepancy spreading to almost 15 minutes in the case of universities, the average response time of 45 minutes appears to have been raised by a number of organizations that dedicated a substantially longer amount of time in answering the survey questions. The overall breadth of response times, which is particularly noteworthy, may be indicative of the scope of individual organizations, the level of effort exerted, the time available to dedicate to a survey, and the applicability of the survey to each particular organizations.

While the study aimed at allowing organizations the flexibility to represent their institutions fully and accurately, certain respondents were expected to reflect a broader scope of duties and therefore require additional time to complete the surveys. Federal agencies, for example, typically have among the broader ranges of duties (regulatory compliance, policy formulation, research, conservation, curation, etc.) when compared to other sectors such as non-profit avocational groups or museums. One would therefore have expected the federal agencies to require more time to complete the MHQ. This, however, is not the case, as in fact museums and non-profit organizations devoted the most time as a group to responding to the questionnaire, and federal agencies among the least amount of time. As a result, such a correlation is not plausible to interpolate from the data and any attempt to identify trends from the average response times would be unsubstantiated.

**TABLE 3.** *Maritime Heritage Questionnaire Response Times by Participant Organization Category*

Category	Number of Respondents	Incomplete Responses	Outliers*	Minimum Response Time	Maximum Response Time	Mean Response Time	Median Response Time
Federal Agencies	14	1	1	16	18	37	29
State Agencies	12	0	0	18	113	47	43
Universities	15	0	1	14	138	48	33.5
Museums and Non-Profit Organizations	19	1	0	15	135	58	51
Cultural Resource Management Firms	18	1	3	10	86	37	34
<b>TOTAL</b>	<b>78</b>	<b>3</b>	<b>5</b>	<b>10</b>	<b>138</b>	<b>45</b>	<b>38</b>

*\*Substantial outliers not included in calculations or represented in minimum and maximum response times*

It is important, however, to emphasize the significant time dedicated by representatives of 78 organizations in responding to the MHQ given that the average response times per category ranged from 37 minutes to 58 minutes. This data set, therefore, presents a respectable foundation upon which to conduct further analysis. Prior to engaging in such an analysis, Chapter II will establish the parameters in which all the aforementioned organizations operate through presenting the legislative framework that guides maritime heritage preservation as it has developed in the United States over the last century.



## CHAPTER II

### THE MARITIME HERITAGE PRESERVATION FRAMEWORK

Historic preservation and archaeological resource protection in the United States have a longer history than many realize. At its core, the concept of historic preservation is built upon a fine balance between respecting the private rights of an individual and the public benefits brought to a broader community. The strongest initial impetus for preservation in America came shortly after the Revolutionary War, when the citizens of the country were bonded into a new community through their recent experience. As a result, Philadelphia's Old State House, or Independence Hall, was one of the first buildings to be preserved when the city of Philadelphia responded to community activists by withdrawing a development plan that would have endangered the property, and proceeded to restore it (Lea 2003:1-2).

Efforts to preserve Mount Vernon by the Mount Vernon Ladies Association were mimicked elsewhere by the National Society of Colonial Dames, the Kenmore Association, and the Daughters of the American Revolution (Lea 2003:2). Private initiatives led most of the preservation efforts during this formative period until the middle of the nineteenth century. Following the Civil War, the U.S. Government began conducting ethnographic and archaeological research through the Smithsonian Institution and the Department of the Interior, while it also began acquiring and preserving battlefields through the War Department (King 2004:19). In 1872 Congress established the world's first national park at Yellowstone, comprised of two million

acres of public land in Montana, Wyoming, and Idaho, while the Philadelphia Centennial Exposition of 1876 introduced Americans to the country's architectural heritage and led to the Colonial Revival style of architecture (Lea 2003:3). Meanwhile, increasing population density in the East led to the formation of a number of organizations like the Trustees of Reservations and the American Scenic and Historic Preservation Society aimed at protecting historic sites and scenic natural areas. The link between stewardship of environmental resources and the built environment had been forged only a few decades earlier, when New York's Central Park had been designed to counter what turned out to be an accurate projection of the city's rapid growth (Lea 2003:3-4). Overall, the raised public interest and growing emphasis on preservation of cultural resources led to Casa Grande Ruin being set aside as the first national archaeological reservation in 1892 (Hutt, et al. 1999:3).

Over time, the scope of protected sites has expanded from individual houses and monuments to districts, landscapes, traditional cultural properties (e.g., geologic features attributed with spiritual functions), and even the intangible such as cultural traditions (as recognized by the 1992 amendments to the NHPA). Given the breadth of this legacy, the following review of the nation's historic preservation legal framework will require an evaluation and synthesis of a diverse group of laws and regulations, spanning from the international context to the local level.

The maritime element has united and divided nations for centuries, lending itself as a seminal arena for international regulatory efforts. In many cases, international precedents pertaining to maritime heritage resources, which can extend back centuries,

weigh on the conduct of individual nations. While the United States has, for the most part, not elected to bind itself formally to a number of international agreements, these still provide a context within which the nation finds itself. Accordingly, the legislative review that follows will begin with a brief review of traditional maritime law and a number of United Nations agreements that affect this area of cultural heritage.

On the national front, it is important to note that the United States is a country of multiple levels of government and intertwined jurisdictions. The review of national and state laws and regulations below should be viewed as an attempt to look at each piece of this mosaic, keeping in mind the scope, applicability, and geographic jurisdiction of every authority. It is important to consider the evolution from one statute to another when examining each statute individually. However, as the intent of this review is to expose the reader to the current heritage preservation framework as a whole, and given the fact that the most important statute often depends on what type of resource is concerned and where it is located, national laws will be presented in the order they appear in the U.S. Code. A representative sample of the legal provisions guiding preservation of maritime heritage resources within twenty individual states will follow. Within state jurisdiction, these laws are often more important than the federal statutes, and many times do not entirely conform to the intents of the latter. Either expressly or indirectly, many of the specific terms, language, and stipulations of both federal and state statutes are maintained in the review below. While compromising the legibility of the text to some degree, this was part of a conscious effort aimed at increasing the ability of the overview to serve as the most objective and precise reference as possible.

Furthermore, this approach allows for the reader to more readily identify discrepancies and consistencies among the statutes, both important to keep in mind when analyzing the current preservation scheme. Following a review of the organizational responses to the Maritime Heritage Questionnaire in Chapter III, Chapter IV will attempt to present and assess the legal framework as a whole, putting both national and state laws and regulations in perspective.

### **THE INTERNATIONAL CONTEXT**

Traditional maritime law delineating the “freedom of the high seas” was given a judicial basis as early as the seventeenth century by Hugo Grotius, and can trace its routes back to the Rhodian sea law of antiquity (Maarleveld 2011a:926, 929). At the same time, the value of maritime and submerged cultural heritage has been recognized across various regions of the globe for decades, though not uniformly. As early as 1932, following an 1884 archaeological survey around Salamis and discoveries at Antikythera (1900), Marathon (1925), and Artemision (1928), the Greek government passed law 5351 “on Antiquities” which specifically referenced antiquities in rivers, lakes, and on the seabed, declaring them property of the state (Agouridis 1997; Catsambis 2006; Lolos 2003).

The United States, with its geo-political standing, extensive coastline, and few neighboring countries, might appear to remain unaffected by international precedents and practices, and in fact has ratified neither the United Nations Convention on the Law of the Sea nor the UNESCO Convention on the Protection of the Underwater Cultural Heritage which will be discussed below. It is, however, directly influenced by both

instruments, certain foreign precedents, its long colonial history, and subsequent international engagements. As a result, it is fitting to begin any discussion of the nation's historic preservation framework with a review of the international maritime and cultural heritage context that surrounds it.

### ***The Law of Finds and the Maritime Law of Salvage***

There are two primary sources of international law: customary law and international agreements such as treaties and conventions. Customary law, which is the custom or conduct of nations that has generally been accepted by the international community, takes precedence absent specific international agreement or coastal nation domestic legislation (Hutt, et al. 1999:508-509). Both the common law of finds and the law of salvage apply in this situation, and both are successfully utilized by salvors seeking ownership rights or salvage awards associated with submerged cultural resources.

The law of finds, derived from terrestrial property law, is based on the concept that whoever finds abandoned property and reduces it to his or her possession obtains title to it. In such instances, salvors typically attempt to bring an *in rem* action in federal admiralty court seeking title to a particular wrecksite. The law of finds generally assigns ownership of or title to the abandoned property without regard as to where the property is located. There are, however, two exceptions to this formula. If the abandoned property is embedded in submerged lands the owner of the submerged lands also owns the abandoned property. Also, if the owner of the submerged lands on which the property is

found has constructive possession of the property such that it cannot be lost, the owner of the submerged lands also owns the property (Hutt, et al. 1999:403).

The maritime law of salvage, on the other hand, does not confer ownership rights to submerged cultural resources, but rather provides for a salvage award. It has historically been applied to the recovery of property in peril as a result of a recent marine casualty, and its purpose is to provide a commercial incentive for returning such property to the stream of commerce. Since the 1980s, however, the law of salvage has also been applied to the recovery of underwater cultural heritage from submerged sites, which, salvors argue, are in peril. Successful claims require that the property in question is indeed in marine peril and at risk of becoming deteriorated, lost, or destroyed, that the salvor conducts his or her activities voluntarily, and that those activities are successful (whether in whole or in part). It is important to note that salvage law assumes that there is an owner, and that if that owner refuses salvage then the salvor must cease pertinent activities (Hutt, et al. 2004:123). In making a determination as to the value of a successful salvage award, courts look at a number of factors pertaining to the level of effort needed to undertake the salvage service, the risk involved, the value of the recovered property, and the risk that property was in when rescued (Hutt, et al. 2004:124). Interestingly, the Fourth Circuit, in *Columbus-America Discovery Group v. Atlantic Mutual Insurance Co.* (268 F.3d 194 [4<sup>th</sup> Cir. 2002]), identified two additional factors; the high-risk nature of the investment, and more importantly the salvor's preservation of the historical and archaeological value of the wreck and cargo (Hutt, et al. 2004:124). Given that salvage law privileges private ownership and commercial

values over the public interest and preservation values, the fact that an admiralty court may determine how well a salvor is preserving archaeological and historical values has been seen as an unfortunate development by some (Elia 2000:52). It is also important to note that, consistent with general admiralty law, a salvor must act lawfully while salvaging a vessel. By itself, possession of abandoned property is not sufficient to establish a salvage claim, as possession must be acquired lawfully. As it became clear following *Lathrop v. The Unidentified, Wrecked & Abandoned Vessel* (817 F. Supp. 953 [M.D. Fla. 1993]), it is for Congress, through appropriate legislation, to substantively supplement admiralty law and determine the lawfulness of certain salvage activities (Zander 1996:30).

As aforementioned, there are also certain international agreements that directly pertain to cultural heritage and submerged archaeological sites which in certain cases supersede customary law, including the law of finds and the maritime law of salvage.

***United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property***

Since its founding in 1946, the United Nations Educational, Scientific and Cultural Organization (UNESCO) has dedicated itself to the protection of cultural heritage (UNESCO 2011m). An early example of this focus was the 1954 Convention on the Protection of Cultural Property in the Event of Armed Conflict (UNESCO 2011b; UNESCO 2011i). Another of its most far-reaching acts in this regard has been the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and

Transfer of Ownership of Cultural Property. Building upon a 1964 General Conference Recommendation, the 1970 Convention recognized, among other things, that cultural property “constitutes one of the basic elements of civilization and national culture, and that its value can be appreciated only in relation to the fullest possible information regarding its origin, history, and traditional setting” (UNESCO 1971). It also declared that “it is incumbent upon every state to protect the cultural property existing within its territory against the dangers of theft, clandestine excavation and illicit export” (UNESCO 1971). The Convention makes the import, export, or transfer of ownership of cultural property that is contrary to its provisions illicit and charges State Parties with opposing such practices with the means at their disposal. Measures include setting up one or more (adequately funded) national services for the protection of cultural heritage, introducing a certificate authorizing the exportation of cultural property, as well as preventing museums and similar organizations within their territories from acquiring illegally exported cultural property originating in another State Party. Provisions also include increased international collaboration in combating illicit activities and resolution dispute, furthering public education, and additional support provided by UNESCO to implement certain of the Convention’s measures (UNESCO 1971:136-141). The Convention has 120 signatories as of 2011, including the United States which accepted it in 1983 and ratified it with certain reservations (UNESCO 2011c; UNESCO 2011d). These reservations identify and clarify the U.S. Government’s understanding of the provisions of the Convention, including, for example, limiting the stipulation on



museum acquisitions to those museums subject to national control under existing legislation (UNESCO 2011c).

***United Nations Convention on the Law of the Sea (UNCLOS)***

Since 1884, there have been more than 60 international agreements pertaining to the law of the sea which have primarily focused on subjects such as rights of navigation, shipping, and sailors' working conditions (Elia 2000:43). In 1982, following 14 years of negotiations involving more than 150 countries, the United Nations Convention on the Law of the Sea put forward a new framework of maritime law which merged traditional rules for the uses of the oceans and new legal concepts and regimes. The Convention entered into force in 1994 with the 60<sup>th</sup> instrument of ratification or accession (United Nations 2011a). By 2011, over 162 nations had proceeded with ratification or accession of UNCLOS, representing all regions of the world (United Nations 2011b). The Convention contains several key provisions including that coastal nations may exercise sovereignty over a territorial sea that may extend up to 12 nautical miles from coastal baselines, as well as prevent infringement of its fiscal, immigration, and sanitary laws within a contiguous zone, which extends an additional 12 nautical miles out to sea (United Nations 1994: Part II). UNCLOS further declares that coastal nations have sovereign rights over natural resources, certain economic activities, marine research and environmental protection within an Exclusive Economic Zone (EEZ), extending 200 miles seaward of the territorial sea (United Nations 1994: Part V). In a related provision, coastal nations have sovereign rights over the continental shelf for exploration and

exploitation purposes, a zone which may extend even further than 200 miles under specified circumstances (United Nations 1994: Part VI). Specific mention is made of warships and other government ships operated for non-commercial purposes (United Nations 1994: Part II, VII). All nations are entitled to traditional freedoms of navigation, overflight, scientific research and fishing on the high seas (United Nations 1994: Part VII). However, all marine scientific research in the EEZ or on the continental shelf of a coastal nation is subject to the consent of that nation, although issuing consent is usually required upon the applicant meeting certain criteria (United Nations 1994: Part XIII). Nations are bound to prevent and control marine pollution, and are obliged to adopt measures to manage and conserve living resources (United Nations 1994: Part VII, XII). UNCLOS encourages peaceful resolution of disputes and established the International Tribunal for the Law of the Sea. Parties in disagreement may also submit disputes to the International Court of Justice, or go to arbitration (United Nations 1994: Part VII, XV).

Two separate articles within UNCLOS address maritime cultural resources. When discussing the seabed, ocean floor, and subsoil beyond the limits of national jurisdiction, Article 149 states that all objects of an archaeological and historical nature shall be preserved or disposed of for the benefit of mankind as a whole, with particular regard being paid to the nation of origin, the nation of cultural origin, or the nation of historical and archaeological origin (United Nations 1994:74). Article 303, meanwhile, declares that states have the duty to protect objects of an archaeological and historical nature found at sea and shall cooperate for this purpose. When it comes to the contiguous zone, the same article states that nations may control traffic in objects of an

archaeological and historical nature through presuming that their unauthorized removal would result in an infringement of applicable laws within its territory or territorial sea. Some nations, such as Denmark, have accordingly declared a heritage protection zone of 24 nautical miles (Maarleveld 2011a:927). Whereas both these articles appear promising, Article 303 fails to specify which of the various marine zones are included in the directive to protect archaeological objects “found at sea” (though likely to the contiguous zone), and does not set forth what is meant by protection (Zander and Varmer 1996). The very next provision of article 303 states that the aforementioned do not affect the rights of identifiable owners, the law of salvage or other rules of admiralty, or law and practices with respect to cultural exchanges (United Nations 1994:138). This inherently weakens the earlier provisions and is among the reasons why some have criticized UNCLOS as demonstrating a lack of serious concern for the subject and fundamental misunderstandings about the nature and scope of maritime heritage preservation (Elia 2000).

The United States has adopted several of the UNCLOS provisions, such as the aforementioned extension of its territorial sea and contiguous zone, but has yet to join the agreement, originally over disagreement concerning certain deep seabed mining provisions which were later modified (Elia 2000:44). Recently there has been a renewed emphasis on ratification as evidenced through the 2010 Interagency Ocean Policy Task Force Final Recommendations to the White House Council on Environmental Quality. The Task Force found that accession to the Convention would further national security, environmental, economic, and diplomatic interests. Among the primary reasons cited

were that UNCLOS codifies essential navigation rights and freedoms of the sea upon which the Armed Forces rely, sets forth responsibilities of nations to prevent, reduce and control pollution of the marine environment, and provides for a stronger foundation for extending U.S. legal rights to the continental shelf. The Task Force concluded that joining the Convention would reaffirm U.S. leadership in global affairs and allow the country to formally participate in the interpretation and development of the agreement (The White House Council on Environmental Quality 2010a:8-9).

### ***UNESCO Convention on the Protection of the Underwater Cultural Heritage***

As early as the mid-20<sup>th</sup> century, the international community had come together to consider the importance of properly addressing underwater cultural heritage. UNESCO's Recommendation on International Principles Applicable to Archaeological Excavation, issued in 1956, applied the term "archaeological excavations" to "any research aimed at the discovery of objects of archaeological character, whether such research involves digging of the ground or systematic exploration of its surface or is carried out on the bed or in the sub-soil of inland or territorial waters of a Member State" (UNESCO 1956). The UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage of 1972, now celebrating its 40<sup>th</sup> anniversary, did much to focus international attention on monuments or sites of outstanding universal value, several of which are located in a marine context (UNESCO 1972; UNESCO 2011n). While there are no shipwrecks on the World Heritage List, at least three countries – Canada (Red Bay), Jamaica (Underwater City of Port Royal), and Turkey (Kekova) – presently have

maritime or submerged cultural heritage sites on their Tentative Lists, demonstrating increasing recognition of the importance of such sites (UNESCO 2011g; UNESCO 2011j; UNESCO 2011k).

Particularly over the last two decades, international efforts to preserve submerged cultural resources have intensified. In 1991, the International Council on Monuments and Sites (ICOMOS) of Australia founded the International Committee of the Underwater Cultural Heritage (ICUCH) (ICUCH 2009). Composed of 24 international experts, its purpose was (and remains) to assist ICOMOS International and UNESCO in promoting the protection and sound management of underwater cultural heritage. Its first mandate was to develop a charter on the subject, which was brought to completion by 1996. The ICOMOS Charter on the Protection and Management of Underwater Cultural Heritage, ratified by the 11th ICOMOS General Assembly supplemented the ICOMOS Charter for the Protection and Management of Archaeological Heritage which took form six years earlier (ICOMOS 2003a). It made explicit that, by its very nature, underwater cultural heritage is an international resource given that a large part of it is located in an international setting and is derived from transnational trade and communication. The Charter also stated that underwater cultural heritage is both finite and non-renewable, although if managed correctly it can play a positive role in the promotion of recreation and tourism. The Charter makes a stark distinction between the indirect effect of certain activities on these cultural resources and commercial exploitation of such sites for trade or speculation which it unreservedly denounces. In large part to counter the undesired effects of commercial exploitation, the Charter aims at ensuring that all investigations

“are explicit in their aims, methodology and anticipated results so that the intention of each project is transparent to all” (ICOMOS 2003b).

Meanwhile, in 1994, the International Law Association’s plenary session adopted the Buenos Aires Draft Convention on the Protection of the Underwater Cultural Heritage and transmitted the proposal to UNESCO (International Law Association 2011; UNESCO N.d.-a). Together, with the ICOMOS Charter, this initiative helped lead to the decision of the 29<sup>th</sup> UNESCO General Conference that the protection of underwater cultural heritage should be regulated at the transnational level by an international convention. Paragraph 4 of Article 303 of UNCLOS expressly allowed for other international agreements and rules of international law regarding the protection of archaeological or historical objects (UNESCO N.d.-b:10; United Nations 1994:138). Consequently, UNESCO’s Director-General was invited to convene a group of governmental experts for this purpose, and, between 1998 and 2001, several meetings took place focusing on a Draft Convention on the Protection of the Underwater Cultural Heritage. Building on the Buenos Aires Draft as a model, and on the ICOMOS Charter which formed the essence of the Convention’s Annex Rules, the UNESCO Convention on the Protection of the Underwater Cultural Heritage was adopted in 2001, becoming UNESCO’s fourth convention protecting cultural heritage (UNESCO N.d.-a). The main text sets out basic principles and provides a detailed reporting and coordinating system that enables states to better protect underwater cultural heritage. The Annex, meanwhile, is composed of widely recognized and applied practical rules for the treatment and research pertaining to such cultural resources (UNESCO N.d.-b).

With the Convention, the UNESCO General Conference recognized the importance of underwater cultural heritage as an integral part of the cultural heritage of humanity, the responsibility of states to protect and preserve it, and a growing public interest in the subject. One of the basic aims of the Convention, therefore, was to extend to underwater cultural heritage the same protection offered to archaeological heritage sites on land (Koschtial 2009:14). At the same time, the General Assembly also noted a growing awareness that underwater cultural heritage was threatened by unauthorized activities, increasing commercial exploitation, and incidental negative impacts of other legitimate activities. Therefore, the Convention set out to address these concerns through increased international stakeholder collaboration, a uniform set of criteria governing scientific investigations of surveys and excavations, and codification of rules relating to the protection of underwater cultural heritage in conformity with international law (UNESCO 2001:50-51). Of note is that the Convention does not regulate the ownership of submerged historical remains. A basic premise, however, is that regardless of ownership, preservation of underwater cultural heritage *in situ* should be considered as the first option, prior to allowing or engaging in any activities.

For the purposes of the Convention, “underwater cultural heritage” is broadly defined as

All traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years such as:

- (i) sites, structures, buildings, artefacts and human remains, together with their archaeological and natural context;
- (ii) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and
- (iii) objects of prehistoric character. [UNESCO 2001:51]

Complementing the UNCLOS provisions, the Convention clearly specifies that any activity relating to underwater cultural heritage to which it applies is not subject to the law of salvage or law of finds unless authorized by the competent authorities, in full conformity with the Convention, and ensures that any recovery of underwater cultural heritage achieves its maximum protection (UNESCO 2001:52). When it comes to internal waters, archipelagic waters, or the territorial sea, State Parties have the exclusive right to regulate and authorize activities directed at underwater cultural heritage and must ensure that the Annex Rules are applied to such activities. States may also regulate and authorize activities directed at underwater cultural heritage within their contiguous zones, but in doing so must also apply the Annex Rules. Regarding underwater cultural heritage in the EEZ and on the continental shelf, each State Party is charged with a responsibility to require its nationals or the master of the vessel to report discoveries and intended activities. When in the EEZ or continental shelf of another State Party, states are to require their nationals or the master of the vessel to report discoveries or intended activities to both governments, or to ensure that upon receiving notification they will



swiftly inform the coastal state. However, any authorization granted for an activity directed at underwater cultural heritage located in the EEZ or on the continental shelf must conform to the provisions of Article 10. This Article requires coastal states informed of a discovery or activity in these areas to consult with all other State Parties which have a declared interest on how to best protect the resource and coordinate consultations as the “Coordinating State.” State Parties may declare an interest based on a verifiable link to the underwater cultural heritage concerned, particularly a cultural, historical or archaeological one. When it comes to the high seas, known as “the Area” in UNCLOS and comprising about 56 percent of the earth’s surface, State Parties are charged with a responsibility to protect underwater cultural heritage, require their nationals or vessels to report discoveries or activities, and then inform the Director General who makes available that information for any state that wishes to be consulted on the handling of the site (Elia 2000:45). Here too, interested State Parties appoint a “Coordinating State” and a prescribed consultation process must ensue. No State Party may engage in or authorize activities directed at state-owned vessels and aircraft without the consent of the flag state regardless of location (UNESCO 2001:53-54).

The Convention places additional responsibilities on State Parties to prevent the entry of, the dealing in, or the possession of underwater cultural heritage illicitly exported or recovered. State Parties are furthermore charged with taking measures to prohibit activities that do not conform with the Convention from taking place within their territory and with ensuring that their nationals and vessels flying their flag do not engage in any activity contrary to those outlined in the agreement. Measures include

sanctions and seizures of illicitly recovered underwater cultural heritage (UNESCO 2001:55). The agreement supports increased international information-sharing, public awareness initiatives, transfer of applicable technology, and cooperation in the provision of training in archaeological and conservation techniques (UNESCO 2001:55). Lastly, in order to properly implement the Convention, State Parties are directed to establish or reinforce their existing appropriate authorities for the management of an underwater cultural heritage inventory, the effective protection, conservation, presentation, and management of such heritage resources, as well as research and education purposes (UNESCO 2001:56).

The final provisions of the Convention refer to procedural matters and it is important to note that the only reservation permitted upon joining the agreement pertains to the identification of particular territories within a sovereign's jurisdiction where the Convention shall not apply. States making such reservations, however, are required to promote conditions as quickly as possible that would allow full applicability of the Convention in the specified areas, and subsequently withdraw related declarations (in part or in whole) (UNESCO 2001:57).

The Annex Rules to the Convention are considered at least as important as the main text itself (Appendix B). In fact, Article 33 of the Convention reads "The Rules annexed to this Convention form an integral part of it and, unless expressly provided otherwise, a reference to this Convention includes a reference to the Rules" (UNESCO 2001:58). Foremost among the rules is the protection of underwater cultural heritage through *in situ* preservation as the preferred option. Activities to the contrary must be

minimally intrusive and use non-destructive techniques and survey methods in preference to artifact recovery. Such activities may only be authorized “for the purpose of making a significant contribution to protection or knowledge or enhancement of underwater cultural heritage” (UNESCO 2001:58). The Annex Rules are also clear in stipulating that underwater cultural heritage may not be traded, sold, bought, or bartered as commercial goods, and that activities directed at it must be strictly regulated to ensure proper recording of cultural, historical, and archaeological information (UNESCO 2001:58-59). Beyond stating principles, the Annex Rules also establish what are considered best professional practices. A project design with prescribed components is mandated, preliminary research must be undertaken, funding must be secured to finance a project through completion, a project timetable established, and contingency plans formulated (UNESCO 2001:59). Activities may only be undertaken under the direction, control, and regular presence of a qualified underwater archaeologist with the scientific competence appropriate to the project. The Annex Rules also prescribe requirements pertaining to documentation, conservation, and site management programs, which include provisions for public education, as well as impose safety and environmental stipulations (UNESCO 2001:60). Finally, the Annex Rules discuss the need and contents of interim and final reports, which are to be deposited as public records, and the curation of project archives, with arrangements for the latter set out prior to the commencement of any activities (UNESCO 2001:60-61). It is important to note that public education, popular dissemination of information, and public access to underwater cultural heritage are all encouraged, with or without conditions, throughout the Annex.

The Convention entered into force on January 2, 2009, following the ratification, acceptance, approval, or accession of the 20<sup>th</sup> State Party (UNESCO 2011e). As of late 2011, 40 states are part of the Convention, including several traditional maritime powers such as Italy, Portugal, and Spain, with more expected to join in the near future as the Convention takes greater hold (see Appendix B) (UNESCO 2011e). Since entering into force, an international colloquium has taken place in December 2011 to commemorate the 10th anniversary of the Convention and to explore current issues. In addition, three sessions of the Meeting of States Parties have been held, and the UNESCO Manual for Activities Directed at Underwater Cultural Heritage, embodying the Annex Rules, has been published (Guèrin and Egger 2011; Maarleveld 2011b; UNESCO 2011a; UNESCO 2011).

The UNESCO Convention on the Protection of the Underwater Cultural Heritage is a particularly significant international agreement and affects the United States, even if it is not a party to it at this time. The Annex Rules set out internationally accepted professional standards for the conduct of underwater archaeology, and, following an initiative by the Society of Historical Archaeology UNESCO Committee, nine U.S. federal agencies have favorably responded to a letter by the President of the Society through committing to either consider the incorporation or incorporate the Annex Rules into their guidelines (Society for Historical Archaeology 2011). Unlike the 1972 World Heritage Convention which only protects heritage of outstanding universal value, the Convention on the Protection of the Underwater Cultural Heritage applies to all submerged cultural resources (UNESCO 2011h). In addition to complementing

UNCLOS, the Convention also supplements the International Convention on Salvage of 1989, negotiated in the context of the International Maritime Organization, which allowed states to exclude maritime cultural property of prehistoric, archaeological, or historical interest from its workings, but did not present an alternative (International Maritime Organization 2011a; International Maritime Organization 2011b; Maarleveld 2011a:935). Most encouragingly, perhaps, the UNESCO Convention on the Protection of the Underwater Cultural Heritage is beginning to serve as a guide to the very court cases it is intended to discourage (Maarleveld 2011a:935). While still in need of establishing itself among significant maritime powers, including the United States, the Convention forms what is likely the most important international precedent pertaining to maritime heritage preservation.

## **NATIONAL LAWS AND REGULATIONS**

On the national level, there is a significant, broad, and inter-related range of legislation that pertains to different aspects of maritime heritage spread throughout the U.S. Code. Certain statutes have more universal application, while others relate to a particular subsection of maritime cultural resources. Multiple amendments introduced over decades have added programs, stipulations, and authorities to similar but not always directly related laws. As aforementioned, given this overlapping and complex arrangement, and in order to afford equal respect to the various statutes that comprise the overall framework, the summary below will be arranged according to the order in which statutes appear in the U.S. Code. Where appropriate, they are accompanied by a

discussion of guidelines or promulgating regulations, associated court cases, and the present state of authorized programs. The aim is to provide an overview of the mosaic of pertinent legislation that supports heritage preservation in a manner that conveys the extent, structure, and policies of the legislative framework as a whole. The account below does not present a comprehensive legislative history of heritage statutes as other studies have pursued (see Hutt et al. 1999). While it is worth stressing that a law's interpretation by the courts is often as important as the original language in the statute itself, it is not within the scope of this study to review all applicable court cases, but rather to accentuate some of the most prominent ones. At the same time, this review is conducted from the perspective of a cultural resource manager, not a maritime or heritage law practitioner. Readers are urged, therefore, to consult appropriate legal authorities and explore each statute and its history further if they seek more than a broad understanding and interpretation.

As a final point, it should be noted that this review is conducted with the preservation of cultural resources as its driver, and with particular focus on what might be pertinent to one or more aspects of maritime heritage. Therefore, emphasis is placed on sections of statutes that most affect resource preservation; not all sections of each statute are necessarily addressed, and not all sections are addressed equally. Appendix A presents a comprehensive or fuller version of the statutes discussed below, though for a complete understanding of the scope of each law the reader is encouraged to review the U.S. Code itself, now available online from the Office of the Law Revision Counsel of the U.S. House of Representatives (U.S. House of Representatives 2011). The U.S.

Government Printing Office, on the other hand, maintains an online version of the nation's Code of Federal Regulations that implements and supplements the general principles codified by the nation's laws (U.S. Government Printing Office 2011)

***The Sunken Military Craft Act (SMCA) (10 U.S.C. § 113)***

The Sunken Military Craft Act was enacted in 2004 with the purpose of codifying international precedent relating to the application of sovereign immunity to state-owned craft. Passage of the SMCA followed on the heels of a Presidential Statement on United States Policy for the Protection of Sunken Warships (January 19, 2001) which declared that the United States retained title to its sunken state craft indefinitely, unless that title had been abandoned or transferred in a manner Congress authorized or directed. It also declared that foreign sunken state craft could be transferred or abandoned only in accordance with the laws of the foreign flag state. Passage of time in and of itself did not extinguish title to either U.S. or foreign sunken state craft. The Presidential Statement made clear to salvors that unauthorized activities directed at disturbing or recovering state craft should not occur without the express permission of the sovereign state and should be conducted with professional scientific standards and the utmost respect for any human remains. Finally, the Statement declared that the United States refuses salvage services pertaining to its sunken state craft. The declaration of public policy was prompted by two earlier court decisions. Both the Fourth Circuit decision in *Sea Hunt v. Unidentified Shipwrecked Vessel* (221 F.3d 634 [4<sup>th</sup> Cir. 2000]) regarding the Spanish vessel *Juno*, and the Eleventh Court decision in *International Aircraft Recovery, L.L.C.*

*v. Unidentified, Wrecked, and Abandoned Aircraft* (218 F.3d 1255 [11<sup>th</sup> Cir. 2000]) held that a nation retained ownership to its sunken state craft and cargo unless they were expressly abandoned (Hutt, et al. 2004:124). A few months prior to enactment of the SMCA, the Governments of France, Germany, Japan, Russian Federation, Spain, and the United Kingdom joined the United States with similar statements regarding their sunken state craft, through Public Notice 4614 issued by the Department of State's Office of Ocean Affairs on the Protection of Sunken Warships, Military Aircraft and Other Sunken Government Property (69 F.R. 5647) (U.S. Department of State 2004). The Public Notice followed an earlier Statement on Sunken State Vessels and Aircraft which had been agreed upon in 1995 by the same parties and delivered to the Law of the Sea Offices of United States embassies (U.S. Department of the Navy 1995).

One of the reasons sovereign governments have recently taken an active role in the preservation of their sunken state craft is that these vessels often serve as war graves, contain environmental and safety hazards such as oil and ordnance, and may also safeguard state secrets. From the point of view of heritage management, it is also important to recognize that sunken military craft represent a unique class of maritime resources that often played important roles in key moments and engagements in a nation's history. Therefore, in addition to the other sound reasons that mandate their preservation and controlled access, their historical and archaeological potential is significant.

Building on the aforementioned policy declarations, the first section of the SMCA (Section 1401) codifies the fundamental concept that the United States maintains



title to its sunken military craft despite the passage of time and that such title can only be relinquished by an express act of divestiture. In Section 1402, the SMCA proceeds to enumerate prohibited unauthorized activities that aim at disturbing, removing, or injuring sunken military craft and establish that no person may possess such craft. What is important to note is that actions taken by, or at the direction of, the United States provide an exception to the aforementioned prohibitions. In order to allow for parties other than the United States to access sites in a manner that is intrusive, Section 1403 provides for the implementation of permitting regimes. Permits are limited to activities that are undertaken for archaeological, historical, or educational purposes and are pursuant to regulations that may be issued by either the Secretary of a military department or the Secretary of the department in which the Coast Guard is operating. Consultation with other federal agencies that have authority with respect to activities directed at sunken military craft or the area in which such craft are located is a required part of the process. Of interest is that fact that at the request of a foreign state, the Secretary of the Navy, following consultation with the Secretary of State, may incorporate foreign sunken military craft located in United States waters within the permitting system set up by pursuant regulations. This attention to bilateral agreements is extended to Section 1407 where the Secretary of State, in consultation with the Secretary of Defense, is encouraged to negotiate and conclude agreements with foreign countries regarding sunken military craft. It is important to note that according to the SMCA, the law of finds does not apply to any U.S. sunken military craft, regardless of location, nor to any foreign sunken military craft within United States waters. The

related maritime law of salvage is also addressed, and in the case of sunken military craft, no salvage rights or awards may be granted without the express permission of the United States or the relevant foreign state.

Penalties for violating provisions of the SMCA are noted in Section 1404 and are aimed at serving as a robust deterrent. Civil penalties may reach \$100,000 per violation, but each day of a continued violation constitutes a separate offense. At the same time, vessels used in committing violations are also liable *in rem*, a term which refers to legal action directed toward property. Liability for damages, covered in Section 1405, serves as an even stronger deterrent. Not only are violators charged with covering enforcement costs, but also the costs incurred in the storage, restoration, care, maintenance, conservation, and curation of any craft that is disturbed without authorization. Even more impressive, perhaps, is that violators may furthermore be charged the cost of retrieving any information of an archaeological, historical, or cultural nature from the site that has been disturbed, suggesting that a violator could be called to cover the costs of entire archaeological excavations undertaken after a violation has occurred. Finally, nothing in the statute prevents the United States from also pursuing criminal sanctions for plundering of wrecks, larceny of government property, or other violations.

Particularly important to the application of SMCA are certain definitions present in Section 1408. Here, “sunken military craft” are defined as all or any portion of

- a) “any warship, naval auxiliary, or other vessel that was owned or operated by a government on military noncommercial services when it sank”; b) “any sunken military aircraft or military spacecraft that was owned or operated by a government when it

sank”; and c) the associated contents of a craft referred to a) or b). It is important to note that the second clause of subparagraph A only applies to “other vessels” and that all warships and naval auxiliaries are covered under the SMCA. When it comes to “associated contents,” they are defined as a) “the equipment, cargo, and contents of a sunken military craft that are within its debris field”; and b) “the remains and personal effects of the crew and passengers of a sunken military craft that are within its debris field.” Interestingly, both of these subparagraphs depend on the contents being within a craft’s debris field, which itself is not defined.

While other federal agencies such as the Department of Homeland Security have already invoked the SMCA in protecting a C-130 aircraft in 2009, the U.S. Navy, responsible for the vast majority of U.S. sunken military craft, has taken the lead in drafting regulations pursuant to the Act (Department of Homeland Security 2010). The NHHC maintains an Underwater Archaeology Branch which is responsible managing over 17,000 U.S. Navy ship and aircraft wrecks through regulations 32 C.F.R. 767 presently in place (Application Guidelines for Archeological Research Permits on Ship and Aircraft Wrecks under the Jurisdiction of the Department of the Navy [*sic*]). The fact that a majority of these ship and aircraft wrecks are located within international or foreign territorial waters likely prompted the provisions promoting international collaboration and encouraging reciprocal treatment of these resources. It is important to note that the current regulations and regulations to be promulgated under the SMCA are based on separate statutes and therefore are characterized by certain differences in terms of their scope, application, and enforcement. The SMCA, for example, makes no

distinction between historic sunken military craft and contemporary sunken military craft, while the current regulations address only aircraft and ships of the Department of the Navy deemed historic and classified as archaeological sites or historic structures. The present regulations hence enable the Department of the Navy to permit archaeological investigations on aircraft wrecks on land, something not covered by the SMCA. The SMCA, however, carries enforcement provisions that are significantly stronger than those currently in place and also affords protection to foreign sunken military craft located in U.S. waters. It is therefore likely that the proposed SMCA regulations will form part of a greater revised set of guidelines issued by the Department of the Navy as a proposed rule that is based on the SMCA, the NHPA, and 5 U.S.C. 301. The proposed regulations are expected to be published for public comment during 2012.

The broadening scope of protection afforded to these resources has also resulted in efforts to amend the definition of sunken military craft in order to exclude certain vessels that, while on military orders, did not serve an exclusively military function (as would be defined today) during their final missions. If successful, commercial salvors hope to regain access to state vessels that also carried private goods as part of their authorized functions. While two separate proposals have been put forth and defeated in Congress in 2010 and 2011, the SMCA has played a notable role in the prominent case of *Odyssey Marine Exploration, Inc. v. The Unidentified Shipwrecked Vessel, et al.* (Case No. 8:07-CV-614-SDM-MAP), and efforts to amend the definition in order to affect the final outcome of the case may continue (Eggen 2011; The Library of Congress

2011; personal communication with the Underwater Archaeology Branch, December 2011).

***National Parks, Military Parks, Monuments, and Seashores (16 U.S.C. 1) Subchapter I: National Park Service (16 U.S.C. 1 § 1 et seq.) & Subchapter LXI: National and International Monuments and Memorials (16 U.S.C. 1 § 431-450ss-7)***

*The National Park Service Organic Act (§ 1a1-1a5).* The National Park Service Organic Act (NPSOA) was originally enacted in 1916, more than four decades after the establishment of Yellowstone National Park in 1872, and a decade after the Antiquities Act of 1906 (AA) (U.S. Department of the Interior 2009a). The current statute is extensive and multifaceted; however, the basic tenet traces back to the original wording. Section 1 of the Act established the National Park Service (NPS) within the Department of the Interior to “promote and regulate” the use of federal areas “by such measures as conform to the fundamental purpose of said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein... in such a manner...as will leave them unimpaired for... future generations” (16 U.S.C. 1§ 1). The original Act also included authority for the Secretary of the Interior to make and publish rules and regulations as deemed necessary for the use and management of the parks, monuments, and reservations under the jurisdiction of the NPS (U.S. Department of the Interior 2008b). Section 1a-1, amended in 1978, re-affirmed this original mission of the NPS and declared that the regulation of areas in the

National Park System shall be consistent with the purpose of Section 1 to the benefit of all the people of the United States. It also states that all authorized activities and the protection, management, and administration of these areas “shall not be exercised in derogation of the values and purposes for which these various areas have been established,” unless provided otherwise by Congress (16 U.S.C. 1§ 1a-1). Together these two sections clearly set a mandate based on protecting and preserving natural, but also historic resources within NPS lands. The Secretary of the Interior is furthermore directed to “investigate, study, and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which have the potential for inclusion in the National Park System” (16 U.S.C. 1§ 1a-5). In such a manner, the Department of the Interior has continued to expand the System to now include 397 areas covering more than 84 million acres dispersed over 49 states, the District of Columbia, and in several territories. Protected areas include national parks, monuments, battlefields, military parks, historical parks, historic sites, lakeshores, seashores, recreation areas, scenic rivers, and trails (U.S. Department of the Interior 2011f). As of 2008, these areas preserved more than 68,500 archaeological sites and 27,000 historic structures, while 121 million objects were curated in park museum collections (U.S. Department of the Interior 2011e).

The NPS has substantial discretion in determining how to best meet its mandate (Hutt, et al. 2004:39). As per the Ninth Circuit’s interpretation in the case of *Bicycle Trails Council of Marin v. Babbitt* (82 F.3d 1445 [9<sup>th</sup> Cir. 1996]), the NPSOA remains silent as to the specifics of park management. This has allowed the NPS to undertake a

number of different management approaches through developing a separate plan for each unit of the System and supporting the Submerged Resources Center (Hutt, et al. 2004:39; U.S. Department of the Interior 2011h). The Center, which was founded in 1980 as the Submerged Cultural Resources Unit, inventories and evaluates submerged resources located throughout the National Park System, including its 90 national seashores, lakeshores, rivers, and other units with submerged lands. It also assists other agencies with the preservation of underwater cultural heritage both within the United States and abroad (Aubry and Stright 1999:55; National Park Service N.d.). Hence, together with the Park System Resources Protection Act (16 U.S.C. 1§ 19jj) which was enacted in 1990 to protect all NPS property (regardless of age or significance, whether natural, cultural, or functional), the NPS Organic Act has a significant impact on the preservation of maritime heritage throughout the country.

*The Antiquities Act of 1906 (§ 431-433).* Within the National and International Monuments and Memorials subchapter of 16 U.S.C. § 1, lies the text of the Antiquities Act of 1906. Also known as the National Monument Act, this text was the culmination of 25 years of legislative efforts preceding the turn of the 20<sup>th</sup> century and has been recognized widely as the nation's first general statute addressing archaeological and historic preservation concerns (Hutt, et al. 1999: 4-6). Section 433 of the Act specifies that any person who shall appropriate, excavate, injure, or destroy historic or prehistoric ruins, monuments, or objects of antiquity on lands owned or controlled by the U.S. Government requires a permit by the Department responsible for managing those lands.

The Act provides for a fine of not more than \$500 dollars and/or an imprisonment term of no more than 90 days in the case of violations. The Criminal Fines Improvement Act of 1987 (18 U.S.C. § 1) and the Comprehensive Crime Control Act of 1984 (18 U.S.C. § 3623) increased the original penalties to a fine of not more than \$5000 and/or an imprisonment term of up to six months.

According to Section 432, the Secretaries of the Interior, Agriculture, and the Army are authorized to draft regulations and grant permits to institutions they deem qualified to conduct investigations, excavations, or artifact recoveries. Permits are limited to museums, universities or other scientific or educational organizations and artifacts recovered must be permanently preserved in public museums.

The second main function of the Antiquities Act of 1906 pertains to the establishment of national monuments. Section 431 authorizes the President of the United States to declare by public proclamation the establishment of national monuments around historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest. Such monuments must be situated on lands owned or controlled by the U.S. Government and must be confined to the smallest area compatible with the proper care and management of the objects to be protected. A single exception is stated in Section 431a which requires authorization by Congress for further extension or establishment of national monuments in Wyoming. Regulations issued pursuant to the Antiquities Act may be found at 43 C.F.R. 3 (Preservation of American Antiquities).

Within three years of enactment, President Roosevelt had proclaimed seventeen separate National Monuments, many of which were later incorporated into the National



Park System. Eleven presidents followed the precedent in the 20<sup>th</sup> Century protecting dozens of sites (Hutt, et al. 1999: 5). The AA was also successfully used to protect submerged cultural resources located in the Canaveral National Seashore in *Lathrop v. Unidentified, Wrecked, and Abandoned Sailing Vessel*, 817 F. Supp. 953 (M.D. Fla. 1993). However, the Fifth Circuit has called into question the AA and whether it requires the United States to have control of lands for the particular purpose of protecting cultural property. This has limited its application to only a select number of areas within the marine environment such as National Marine Sanctuaries or national parks that include submerged lands owned or controlled by the United States (Hutt, et al. 2004:129). What is interesting to note, however, was that the Fifth Circuit did not speak to the application and reach of the AA's permitting component, only its ability to be used in conjunction with the Outer Continental Shelf Lands Act (OCSLA) to establish ownership of submerged cultural resources (Zander and Varmer 1996). In fact, the AA was the only statute providing a criminal sanction for injury to historic and prehistoric sites until it was successfully challenged in the case of *U.S. v. Diaz*, 368 F.Supp. 856 (D. Ariz. 1973), then reversed in 1974, 499 F2d. 113 (9th Cir. 1974). The Ninth Circuit Court of Appeals held that the term *object of antiquity* was vague and as a consequence the failure of the Act to provide notice of what the law prohibited rendered it void (Hutt, et al. 1999:183). The same claim was subsequently used by the defendants in *United States v. Smyer*, 596 F. 2d 939 (10<sup>th</sup> Circ.), cert denied, 444 U.S. 842 (1979), though not successfully. The uncertainties resulting from these decisions led to efforts to enact a

new law aimed at protecting archaeological resources on public lands, resulting in the Archaeological Resources Protection Act of 1979 (ARPA).

The century-old AA, however, is still turned to for affording protective measures on significant parts of the nation's natural and cultural heritage. Within the last few years, the Department of the Interior and the U.S. Fish and Wildlife Service with Presidential Proclamations 8335 and 8336 established the Marianas Trench Marine National Monument and the Pacific Remote Islands Marine National Monument respectively in 2009 (U.S. Fish and Wildlife Service 2011a; U.S. Fish and Wildlife Service 2011b). Most recently, Presidential Proclamation 8750 established the Fort Monroe National Monument in Virginia, only weeks after it ceased to be used as an Army installation, following the recommendation of the 2005 Defense Base Closure and Realignment Commission. In this case, the Secretary of the Army and the Secretary of the Interior are charged with entering into an agreement and eventual transfer of control to the Department of the Interior, which within three years must produce a management plan for the site (Presidential Proclamation 8750: Establishment of the Fort Monroe National Monument 2011). While this innovative use of the Antiquities Act has the ability to preserve important maritime heritage resources and was utilized to establish the largest protected area in the United States (Papahānaumokuākea Marine National Monument), its seeming ease of application and lack of Congressional oversight has raised concerns among certain legislators (National Oceanic and Atmospheric Administration 2011k). In fact, House Resolution 817, introduced in February 18, 2011 aims at curtailing the presidential authority it instills. The Bill, which was referred to the

Committee of Natural Resources, seeks to amend the Antiquities Act by striking “in [the President’s] discretion, to declare by public proclamation” and inserting “to declare, subject to approval by an Act of Congress” (Govtrack.us 2011). It is unclear therefore whether this preservation avenue will continue to remain open in the future.

***R.M.S. Titanic Maritime Memorial Act of 1986 (§ 450rr1-450rr3).*** While the site of R.M.S. *Titanic* may be located 340 nautical miles off the coast of Newfoundland, the importance of the shipwreck’s discovery in 1985 and the symbolic status of the site led to the passage of the R.M.S. Titanic Maritime Memorial Act of 1986 (Pub. Law 99-513) (Varmer 2006). As suggested by the name of the Act, Congress determined that R.M.S. *Titanic* should be designated as an international maritime memorial and that, given its state of preservation in the North Atlantic, it is of major national and international cultural and historical significance, meriting protection. Section 450rr of the Act establishes the purposes of the statute and charges the United States with entering into negotiations with other interested nations to institute an agreement which will provide for the designation of the site as an international maritime memorial. The same agreement is also to incorporate provisions to protect the scientific, cultural, and historical significance of R.M.S. *Titanic*. The section further encourages the development and implementation of guidelines for conducting research on, exploration of, and if appropriate, salvage of the vessel. Pending such international agreement or guidelines, Congress expressed the sense that no person should physically alter, disturb,

or salvage the R.M.S. *Titanic* in any research or exploratory activities (16 U.S.C. 1 §450rr).

The latter guidance did not discourage the salvage of 1800 artifacts from taking place the very next year (1987) by Titanic Ventures, Inc., assisted by the French Institute IFREMER, nor prevent the company from obtaining title to them in a French Administrative Tribunal. Conditions of that decision, however, included a requirement that the artifacts not be sold but kept together as a single collection for the sake of public benefit. In 1994, Titanic Ventures obtained exclusive salvage rights to Titanic from the U.S. District Court for the Eastern District of Virginia. The court found that Titanic Ventures, now RMS Titanic, could continue to hold rights to salvage the wreck but did not own it or any of the recovered artifacts. The court mandated that any piercing or penetration of the wreck's hull required its authorization. In August 2011, the Chief Judge of the same U.S. District Court signed an Order granting RMS Titanic title to artifacts recovered in operations following the earlier decision (1993,1994,1996,1998, 2000,2004) subject to certain covenants and conditions that require abidance with international and U.S. historic preservation curation and conservation standards. NOAA, which was identified as representing the public interest in the vessel, was granted authority by the Order to enforce the covenants and conditions through the Department of Justice (National Oceanic and Atmospheric Administration 2011u).

Section 450rr-3 of the Act pertains to the development of the aforementioned international guidelines for which NOAA was directed to enter into consultations with the United Kingdom, France, Canada, and other interested nations. Other federal

agencies, including the State Department, along with academic and research institutions, as well as members of the public, were to also participate in the process. Guidelines were required to be consistent with the national and international scientific, cultural, and historical significance of the site. In the subsequent section, 450rr-4, the Secretary of State is directed to enter into negotiations with the United Kingdom, France, Canada, and other interested nations in developing an international agreement designating the site as an international maritime memorial and ensuring that research on, exploration of, and salvage of the R.M.S. *Titanic* would be consistent with the international guidelines.

NOAA issued Guidelines for Research, Exploration and Salvage of RMS Titanic (66 F.R. 18905) in 2001 following consultation with international partners and taking into consideration 64 public comments (Department of Commerce 2001; National Oceanic and Atmospheric Administration 2011r). Though concise, the guidelines are based on the International Council of Monuments and Sites Charter and the U.S. Federal Archeological Program, and carry similarities to the UNESCO Convention on the Protection of the Underwater Cultural Heritage of 2001 Annex Rules (National Oceanic and Atmospheric Administration 2011r). The subsequent agreement that was based upon these guidelines recognizes *in situ* preservation as the most effective way to ensure the site's protection and stipulates that any successively recovered artifacts should be kept intact as a single collection. It also establishes a permitting system to manage the research, exploration, recovery and salvage of the vessel. While additional parties can join, the negotiated agreement was ratified by the United Kingdom in 2003 and signed by the United States in 2004, subject to the enactment of implementing legislation. Such

legislation, the proposed R.M.S. Titanic Maritime Memorial Preservation Act of 2009, was transmitted to Congress by the U.S. Department of State with the prompting to pass the bill prior to the 100<sup>th</sup> anniversary of RMS *Titanic*'s loss in 2012 (Kerry 2010; National Oceanic and Atmospheric Administration 2003; National Oceanic and Atmospheric Administration 2011s; 2011t; U.S. Department of State 2009). The legislation has not yet been acted upon, and it is unclear whether the exceptional case of the R.M.S. *Titanic* may serve as a precedent for other sites in international waters or as an example of private-public partnerships in the management of maritime heritage sites.

***Historic Sites, Buildings, Objects And Antiquities (Subchapter I: General Provisions) & (Subchapter II: National Historic Preservation) (16 U.S.C. 1A § 461-470x-6)***

***Historic Sites Act of 1935 (§ 461–467)***. Sections 461 to 467 of 16 U.S.C. 1A are commonly referred to as the Historic Sites Act of 1935. The very first section, Section 461, declares that it is national policy to preserve for public use historic sites, buildings, and objects of national significance. Immediately thereafter, Section 462 proceeds to empower the Secretary of the Interior, through the NPS, with specific functions to carry out this policy.

Among the authorities vested in the Secretary of the Interior is the mandate to secure and maintain documents and records pertaining to historic and archaeological sites, buildings, and objects of national importance. At the same time, the Secretary is directed to survey and investigate historic and archaeological sites, buildings and objects

to determine which possess exceptional value as commemorating or illustrating the history of the United States. The Secretary may also engage in restoring, preserving, and maintaining such sites, as well as establishing associated museums. For the same purposes, the Act grants authority to acquire property and manage historic and archaeological sites and buildings, whether independently or in partnership with state and municipal governments, corporations, associations, or individuals. Furthermore, it allows for the NPS to charge visitation fees and grant concessions, leases, or permits, and even to set up corporations to support in the rehabilitation or operation of any particular site, building or property. Finally, Section 462 supports the development of educational outreach initiatives and addresses violations along with an adjudication to pay all court proceedings.

The remainder of the HSA concentrates on the creation of a National Park System Advisory Board and National Park Service Advisory Council and outlines their composition and duties. The statute also provides for technical advisory committees to function in connection with the restoration or reconstruction of any historic or prehistoric building or structure. Committees and funding to support them have been extended or terminated over time, as is evident in the pertinent changes to the U.S. Code.

*National Trust for Historic Preservation (§ 468–468c).* Section 468 authorizes the creation of the National Trust for Historic Preservation (NTHP) as a charitable, educational, and non-profit corporation to facilitate public participation in the preservation of sites, buildings, and objects of national significance. The NTHP is

entitled to acquire real property and reach agreements or contracts in managing such property, as well as to sue and be sued under its corporate name. Since its founding in 1949, the NTHP has developed into a private, non-profit membership organization based in Washington D.C., with six regional offices and 29 historic sites under its purview. It has grown to a membership of 200,000 and partners with thousands of organizations throughout all 50 states (National Trust for Historic Preservation 2011a).

Over its sixty-year history, the NTHP has helped frame the National Historic Preservation Act, issued grants through the Preservation Services Fund, established the National Preservation Honors Awards, and launched several initiatives such as the National Main Street Center, Study Tours, Rural Heritage, America's 11 Most Endangered Historic Places, Historic Hotels of America, and Save America's Treasures (National Trust for Historic Preservation 2011e). In 2010 the NTHP provided over \$60 million in financial assistance through its various grants and investment programs (National Trust for Historic Preservation 2011b). Another particularly important aspect of the NTHP's activities pertains to its advocacy mission, such as a 2005 effort to retain Section 4f of the Transportation Act of 1966 (see below) (National Trust for Historic Preservation 2011e). The Legal Department of the NTHP has established the National Trust Legal Defense Fund and been involved in over 100 cases. Through this core department, the NTHP provides legal advocacy support and legal resources to communities and organizations across the country in an effort to promote and ensure the effectiveness of local, state, and federal preservation laws (National Trust for Historic Preservation 2011d; National Trust for Historic Preservation 2011f). In addition to



protecting the legislation currently in place, the NTHP works with Capitol Hill, state legislatures, and city halls to encourage the adoption of laws and policies that support preservation efforts (National Trust for Historic Preservation 2011b).

*Archeological and Historic Preservation Act (AHPA) (§ 469-469c-2).* To further the policy set forth by the Historic Sites Act, Section 469, part of the original Reservoir Salvage Act of 1960, addresses preservation of historical and archaeological data threatened by dam construction or alterations of terrain. In particular, it addresses historical and archaeological data which might otherwise be irreparably lost or destroyed as the result of any alteration of the terrain caused as a result of any federal construction project or federally licensed activity or program. The same applies to those sites affected by flooding, the building of access roads, the erections of workmen's communities, the relocation of railroads and highways, and any other alteration of the terrain caused by the construction of a dam by any agency of the United States or by any person holding a license issued by an agency. The related Section 469a states that before any agency of the United States can undertake the construction of a dam above a certain size or issue a license to do so, written notice must be given to the Secretary of the Interior. The same applies for dams below the threshold size affecting areas where historical or archaeological material evidence is present or may be present.

These original provisions were later expanded upon in Section 469a-1 to cover instances when a federal agency finds, or is notified in writing by a historical or archaeological authority, that its activities pertaining to any federal construction project

or federally licensed project may cause irreparable loss to significant scientific, historical or archaeological data. In such cases, that agency must notify the Secretary of the Interior in writing and then either request the Department of the Interior to undertake recovery and preservation of such data, or undertake such activities itself with appropriated funds. If the Department of the Interior undertakes the required action, the federal agency responsible for the construction project may assist by transferring funds amounting to no more than 1 percent of the total amount authorized for the project. This 1 percent limitation was amended in 1980 through the National Historic Preservation Act Amendments, and a process was established for federal agencies to have the restriction waived. Similarly, the same amendment provided for the ability of agencies to charge federal licensees and permittees as a condition to the issuance of permits or licenses that affect historic properties within project areas (16 U.S.C. 1A § 469c-2).

Furthermore, Sections 469a-1(b) to 469a-2(a) state that if the Secretary of the Interior is notified in writing by federal or state agencies or other appropriate authority that scientific, prehistorical, historical, or archaeological data may be irrevocably lost by a federal or federally assisted or licensed activity, the Department of the Interior may conduct or cause to be conducted a survey or investigation to recover and preserve such data. No such survey or recovery work is required in connection with any emergency projects. However, the Secretary of the Interior may, with consent of all parties having a legal interest in the property involved, conduct a survey of an affected site even in the cases when a site is located on private or non-federally owned lands. In such instances, the Department of the Interior is required to compensate any party damaged by loss of

use or delays in construction. Finally, through Section 469a-3(b), the Act imposes a consultation requirement on the Secretary of the Interior to determine the most appropriate repository for any relics and specimens recovered as a result of work related to Section 469. Although the AHPA is a preservation-minded statute, King (2008:275), among others, expresses that it is something of an anachronism since the NHPA “Section 106” process makes the AHPA somewhat redundant. As a matter of course, King argues, it is typically not adhered to, except to justify salvage operations in cases when agencies discover archaeological sites after the NHPA Section 106 process has been completed.

*American Battlefield Protection Program (§ 469k-1).* The America Battlefield Protection Program, as stipulated in Section 469k-1, aims at assisting public, private, and government institutions at planning, interpreting, and protecting sites where battles were fought within the nation’s boundaries. The program, now entering its third decade, charged the Secretary of the Interior with supporting, recognizing, and partnering with an extensive group of stakeholders in the identification, research, evaluation, interpretation, and protection of historic battlefields and associated sites on a national, state, and local level. The Secretary is authorized with forging cooperative agreements, issuing grants, establishing contracts, or otherwise providing financial assistance for the execution of the program. Eligible sites are limited to those identified within the Civil War Sites Advisory Commission “Report on the National Civil War Battlefields” (1993). Grants resulting from this program range from \$5,000 to over \$80,000 and do

not require matching funds to be provided from elsewhere. In 2011 the initiative supported two maritime heritage-related projects – the Lake Champlain Maritime Museum in determining the location of the War of 1812 Macdonough Shipyard and Ships of Exploration and Discovery Research in investigating WWII-era submerged cultural resources off Saipan (U.S. Department of the Interior 2011a). In addition to the grant program, Section 469k-1 charges the Secretary of Interior with establishing a battlefield acquisition grant program which has developed into the Land and Water Conservation Fund Civil War Battlefield Acquisition Grants program (U.S. Department of the Interior 2011b).

***Preserve America Program (§ 469n).*** The Preserve America Program, outlined in Section 469n, authorizes the development of a grant program within the Department of the Interior and a recognition program administered by the Advisory Council of Historic Preservation. The program has grown to include several additional government agencies, in addition to the National Endowment for the Humanities, the President’s Committee on the Arts and the Humanities, the Institute of Museum and Library Sciences, and the President’s Council on Environmental Quality (Preserve America 2011b). The program provides competitive matching grants to states, local governments, Indian tribes, communities designated as Preserve America Communities, SHPOs, and THPOs. The objectives of these grants are to promote heritage tourism, education, and historic preservation planning activities. Grants range from \$20,000 to \$250,000. To support this initiative, NOAA and the U.S. Fish and Wildlife Service both offer mini-

grant programs that encourage local partnership activities to care for and interpret heritage resources in the National Marine Sanctuaries and National Wildlife Refuges (Preserve America 2011a). At the same time, 21 organizations have been officially designated Preserve America Stewards and recognized for their exemplary volunteer efforts to preserve historic resources since the program was announced in 2008 (Preserve America 2011c). These organizations include Bateaux Below, Inc., and the Maine Maritime Museum for assisting the New York State Department of Environmental Conservation with three Submerged Heritage Preserves and for promoting the maritime heritage of Maine respectively (Preserve America 2009; Preserve America 2010).

*Save America's Treasures Program (§ 469o).* The Save America's Treasures Program, outlined in Section 469o, provides for matching grants to preserve nationally significant collections and historic properties that are threatened or endangered. All levels of government, educational institutions, and non-profit organizations are eligible to apply for grants to the Department of the Interior, which manages the program in partnership with the National Endowment for the Arts, the National Endowment for the Humanities, the Institute of Museum and Library Services, the NTHP, the National Conference of State Historic Preservation Officers (NCSHPO), the National Association of Tribal Historic Preservation Officers, and the President's Committee on the Arts and the Humanities. Appropriated funds at the level of \$50,000,000 for each fiscal year are authorized and remain available until expended. Unfortunately for the supporters of historic preservation, the U.S. Congress did not renew this promising program's funding

for fiscal years 2011 and 2012, and, according to the NTHP (2011g), it does not plan to re-establish funding in the future.

*National Historic Preservation (§ 470 et seq.).* The National Historic Preservation Act of 1966 (NHPA), as amended, serves as the cornerstone of heritage preservation legislation in the United States. It took form in response to a report sponsored by the U.S. Conference of Mayors, *With Heritage So Rich*, and was mobilized by a Special Committee on Historic Preservation formed during the 1965 White House Conference on Natural Beauty (Lea 2003:10; U.S. Conference of Mayors 1966). It proclaims that the spirit and direction of the country are founded upon and reflected in its heritage and lays out an approach that has been amended at least 22 times since its first enactment, with the latest modifications taking place in 2006 (Advisory Council on Historic Preservation 2008a; Govtrack.us 2006; U.S. Department of the Interior 2006d).

Following a period of intense post-World War II development, the NHPA addressed a concern that contemporary governmental and non-governmental historic preservation efforts were inadequate to ensure the preservation of the nation's heritage. The Act also allowed for a better means of identifying and administering historic resources, thereby encouraging their preservation and assisting with related economic growth.

Section 470-1 of the Act declares that the federal government is in favor of historic preservation, nationally, and internationally, and expresses its intent to provide leadership and utilize financial measures and technical assistance, together with all

levels of government, in the stewardship of the nation's prehistoric and historic resources. This policy is expanded upon in Section 470a, where the nation's historic preservation program is laid out.

Part A of the National Historic Preservation Subchapter outlines the first and a fundamental component of this program, the National Register of Historic Places (NRHP). The Secretary of the Interior is authorized to expand and maintain the NRHP, which is composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering and culture, as well as National Historic Landmarks. The section continues to address the process through which historic properties are nominated to the NRHP and requires the Secretary of the Interior to develop criteria for their selection. The Secretary is also tasked with developing pertinent regulations keeping in mind the rights of the owner(s) of a property or district nominated to the NRHP, and establishing rules pertaining to the curation of prehistoric and historic artifacts (and their associated records) as per Section 470H-2 of the NHPA and the ARPA. Perhaps of equal importance with the establishment of the NRHP, Section 470a lays out the process for regulating State Historic Preservation Programs. Pertinent clauses address the initial designation of State Historic Preservation Offices (SHPOs), period reviews, disapproval of programs that no longer meet the Secretary of the Interior's standards, and fiscal audits. The result of this piece of legislation working in tandem with its precedents is the development of a series of major historic preservation-focused regulations including 36 C.F.R. 60 (National Register of Historic Places), 36 C.F.R. 61 (Procedures for State, Tribal, and Local Government Historic

Preservation Programs), 36 C.F.R. 63 (Determinations of Eligibility for Inclusion in the National Register of Historic Places), 36 C.F.R. 65 (National Historic Landmarks Program), 36 C.F.R. 67 (Historic Preservation Certifications under the Internal Revenue Code), 36 C.F.R. 68 (The Secretary of the Interior's Standards for the Treatment of Historic Properties), 36 C.F.R. 73 (World Heritage Convention), 36 C.F.R. 79 (Curation of Federally Owned and Administered Archeological Collections), and guidelines such as the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 F.R. 44716).

According to the Subchapter, SHPOs are required to administer the State Historic Preservation Programs, conduct state-wide surveys of historic properties, maintain an inventory of such properties, nominate sites to the NRHP, partake in the planning and development process when historic properties could be affected, provide for public outreach, cooperate with the federal and local governments to execute respective programs, and take part in consultations regarding federal undertakings that affect historic properties. Any state is authorized to carry out its responsibilities through either a contract or a cooperative agreement with a qualified non-profit organization or educational institution. Several such organizations responded to the Maritime Heritage Questionnaire mentioned in the introductory chapter.

States are also allowed to take on a larger role through a contract or cooperative agreement with the Secretary of the Interior, in carrying out prescribed requirements of the Secretary (with the potential of financial assistance). The SHPOs may in turn pass on certain responsibilities to certified local governments, together with a portion of grants



received by the State. Such certified local governments must be approved both by the SHPO and the Secretary of the Interior, following a mechanism developed by the respective SHPO. At the same time, historic properties of Indian tribes and Native Hawaiian organizations are addressed separately and the Secretary is directed to ensure that tribal values are taken into account when executing the historic preservation program. To this effect, tribes may assume all or any part of the functions of SHPOs with respect to tribal lands, provided they meet prescribed requirements, and also enter into contracts or cooperative agreements with the Secretary of the Interior (with the potential of financial assistance). In the case of Native Hawaiian organizations, the Hawaii SHPO is required to consult with them in the nomination of properties to the NRHP and enter into an agreement to assess the cultural significance of such property, as well as carry out the cultural component of related preservation programs.

In order to enable the execution of responsibilities associated with NHPA, the Secretary of the Interior is charged with administering a series of grant programs that include a) matching grants to states; b) grants to the NTHP (see Section 470b-1); c) direct grants for the preservation of properties on the NRHR, including threatened National Historic Landmarks and World Heritage sites; d) grants for demonstration projects that concern methods and techniques that have application to historic properties; e) training and development of skilled labor pertaining to historic preservation; f) to assist persons or small businesses within historic districts on the NRHP; and g) to Indian tribes, Native Hawaiian organizations, and non-profit organizations that represent ethnic or minority groups to assist in preserving their heritage.

The Secretary of the Interior, in consultation with the ACHP and other parties are also directed to promulgate guidelines for federal agency responsibilities, as well as for the preservation of historic properties in federal ownership or control (see below). Information dissemination and training are also referenced, as is coordination with the National Center for Preservation Technology and Training.

Section 470a-1 pertains to the United States' participation in the U.N. Convention Concerning the Protection of the World Cultural and Natural Heritage. The process for nominating sites is outlined and the Secretary of the Interior, the Secretary of State, the Smithsonian Institution, and the ACHP are allocated respective roles. The United States currently has 21 sites on the World Heritage List including Papahānaumokuākea, listed as a mixed site of cultural and natural importance (UNESCO 2011o). Meanwhile, Fagatele Bay National Marine Sanctuary is among the sites on the Tentative List of the United States, and though categorized as a natural site, its associated nomination makes reference to the potential importance of cultural remains within the Sanctuary (UNESCO 2011f).

The section immediately following, Section 470a-2, states that federal agency undertakings outside the United States which may directly and adversely affect a property on the World Heritage List, or on the applicable country's NRHP must take into account the effects of the undertaking on such property for purposes of avoiding or mitigating any adverse effects. In 2008, a U.S. federal court in San Francisco ruled that the U.S. Department of Defense violated this section of NHPA in plans to construct a new U.S. Marine airbase in Okinawa by not protecting a Japanese "national monument,"

the endangered Okinawa dugong (Tanji 2008). This poses an interesting precedent that may affect maritime heritage sites, particularly when it comes to U.S. installations overseas.

Section 470f places the same responsibility on federal agencies within the nation's boundaries. The text, a key component of the NHPA often referred to as the "Section 106" process after its designation in the Act itself, reads as follows:

The head of any federal agency having direct or indirect jurisdiction over a proposed federal or federally assisted undertaking in any State and the head of any federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. [16 U.S.C. 1A §470f]

This provision has had a fundamental impact on historic preservation in the United States as it is particularly far-reaching given that federal or federally assisted undertakings include those that require any type of federal funds, grants, licenses, or permits. "Section 106" does not mandate preservation; however, it does provide for the consideration of alternatives that promote preservation and offer the public, stakeholders, and the Advisory Council on Historic Preservation the opportunity to comment on such projects prior to a final decision being made (see Part B below).

Federal agencies are required to consider their actions whether they involve building highways, deepening ship channels, constructing installations, or demolishing abandoned buildings. If an energy industry company wishes to install deep-water infrastructure on leased federal land, or a dredging operation necessitates a permit from the U.S. Army Corps of Engineers, these projects are required to take into account the effect of their actions on any historic property if it is either included on the NRHP, or simply eligible for inclusion.

In order to fully comprehend the extent of “Section 106” it is important to review a few key terms and to consider NRHP eligibility criteria. As defined in the statute, “Preservation” itself, along with “historic preservation” broadly includes the

identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities, or any combination of the foregoing activities. [16 U.S.C. 1A §470w (8)]

Meanwhile, a “historic property” or “historic resource” is defined as “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource” (16 U.S.C. 1A §470w [5]). Finally, for the purposes of this process, an undertaking means

A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including (a) those carried out by or on behalf of the agency; (b) those carried out with Federal financial assistance; (c) those requiring a Federal permit license, or approval; and (d) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency. [16 U.S.C. 1A §470w (7)]

With those concepts in hand, the NPS has issued a series of bulletins addressing the NRHP and assisting with the nomination of properties to it. Among other guidance, it provides clarification on what a building, structure, object, site, or district consists of (U.S. Department of the Interior 2002a). Whereas which specific properties are deemed historic and eligible for inclusion on the NRHP is typically determined through the “Section 106” review, the NPS has also published specific guidelines and criteria for evaluating such property eligibility and preparing nominations, including specific ones for maritime heritage resources (see, for example, U.S. Department of the Interior 1991; U.S. Department of the Interior 1992; U.S. Department of the Interior 1993; U.S. Department of the Interior 1997; U.S. Department of the Interior 1998a; U.S. Department of the Interior 1998b; U.S. Department of the Interior 2002b; U.S. Department of the Interior N.d.-b; U.S. Department of the Interior N.d.-c). These are the same guidelines the NPS utilizes to review and evaluate nominations to the NRHP (Advisory Council on Historic Preservation 2008b). Specifically, historic properties must have significance in American history, architecture, archaeology, engineering, or culture when considering districts, sites, buildings, structures, or objects, and possess

integrity of location, design, setting, materials, workmanship, feeling, and association. They must also fall in one of four categories: a) be associated with events that have made a significant contribution to the broad patterns of American history; b) be associated with the lives of significant persons of the past; c) embody the distinctive characteristics of a type, period, or method of construction, represent the work of a master, possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction; and d) have yielded, or may be likely to yield, information important in prehistory or history. There are a number of property types that are ordinarily ineligible for the NRHP such as cemeteries, birthplaces, graves, properties owned by religious institutions, or structures that have been moved or been reconstructed. Also, to qualify as a historic property, structures must have achieved their significance more than 50 years before the present time. However, there are exceptions to a number of these properties that ordinarily do not qualify, including those that have achieved significance within the past 50 years if of exceptional importance.

In order to enable the provisions of the NHPA to be carried out, Section 470h established a Historic Preservation Fund (HPF). Since 1970 the HPF has issued SHPOs and THPOs approximately \$37 million in annual matching grants, and supported grant programs such as Save America's Treasures and Preserve America (U.S. Department of the Interior 2011g). Section 470h stipulates that the HPF is allocated \$150 million for each fiscal year between 1982 and 2015 from the over \$6 billion in revenue that originates from oil and gas leases as per the Outer Continental Shelf Lands Act (National

Trust for Historic Preservation 2011c). Congress, however, has typically annually appropriated less than half of this amount to NHPA programs and the latest re-authorization of HPF in 2006 came with notable challenges (National Conference of State Historic Preservation Officers 2011). Recently over 250 organizations have formed The Coalition for Full Funding seeking to secure full and permanent funding for the HPF. In July 2010, following previous attempts such as the Conservation and Reinvestment Act, the House of Representatives passed the CLEAR Act (Carbon Limits and Energy for America's Renewal) which provided for full HPF funding. The Senate, however, has thus far not taken action on the bill (National Conference of State Historic Preservation Officers 2011; National Trust for Historic Preservation 2011c). To supplement appropriated funding, the Secretary of the Interior is authorized by Section 470h-1 to accept private donations for projects to acquire, restore, preserve or recover data from any district, building, structure, site, or object listed on the NRHP, as long as the project is owned by a state, local government, or non-profit entity.

In Section 470h-2, NHPA charges federal agencies with the preservation of historic properties under their ownership and control, and requires them to give preference to utilizing such properties to the maximum extent feasible when considering acquiring, constructing, or leasing other buildings. The recent renovation of several buildings within the Washington Navy Yard Historic District, the nation's first naval yard founded in 1799, is an example where this provision has directly aided in the preservation of maritime heritage (District of Columbia Historic Preservation Office 2009). In addition, in what it commonly referred to as "Section 110" after its designation

in the Act itself, each federal agency is required to establish a preservation program for the identification, evaluation, protection and nomination to the NRHP of historic properties under its ownership or management. All historic properties under the control of a federal agency that are eligible for or on the NRHP are to be managed and maintained. Historic properties not under agency jurisdiction or control but potentially affected by agency actions must be fully considered in agency planning. Consultation with stakeholders is required and collaborative agreements for preservation purposes encouraged. If preservation of historic properties is not feasible and such properties are substantially altered or demolished, records of such action must be kept. In the case of National Historic Landmarks, the ACHP must be afforded an opportunity to comment on the undertaking. It is important to note that these aforementioned requirements may be waived in part or in whole in the case of a major natural disaster or an imminent threat to national security. After “Section 106,” “Section 110” forms what many consider the second most far-reaching provision in the NHPA when it comes to federal responsibility over historic properties. The NPS Federal Agency Assistance Program has issued “The Secretary of the Interior’s Standards and Guidelines for Federal Agency Historic Preservation Program Pursuant to the National Historic Preservation Act” focusing extensively on “Section 110” and assisting federal agencies and personnel in carrying out their policies, programs, and projects in a manner consistent with the statute (National Park Service 1998).

In order to implement and coordinate these activities, each federal agency is required to appoint a Preservation Officer. In addition, Section 470h-4 places a



requirement that federal agency employees or contractors engaged in preservation activities (specifically in the disciplines of archaeology, architecture, conservation, history, and planning) meet professional standards in conducting their work and also meet qualification standards established by the Office of Personnel Management.

To encourage the provisions of these sections, President George W. Bush issued Executive Order 13287 which reinforces the stewardship role of federal agencies, promotes collaboration, increases accountability by requiring periodic reports to the ACHP and the Secretary of the Interior, and promotes heritage tourism (Executive Order 13287: Preserve America).

Part B of the National Historic Preservation Subchapter is dedicated to the Advisory Council on Historic Preservation (ACHP), an independent agency that is responsible for advising the President and the Congress on matters related to historic preservation. As specified in Sections 470j(a) and 470j(b), the ACHP is responsible for recommending measures to further coordinate historic preservation activities with all levels of government as well as private parties, and together with the NTHP encourage public interest in historic preservation. The ACHP is further charged with recommending studies pertaining to legislative and administrative statutes, reviewing policies and programs of federal agencies, providing recommendations for improvement, and encouraging training and education in the field. Perhaps the most important role of the ACHP, as outlined in Section 470s, is promulgating regulations to implement the “Section 106” process in its entirety. In formulating proposed regulations, the ACHP is required to consider the participation of local governments and to develop the

parameters for exemptions from NHPA requirements. The ACHP, as per Section 470j, is also mandated to submit an annual report of its activities and the results of its studies to the President and the Congress. Among other components, the report is to propose legislative enactments to address recommendations, identify emerging problems in the field, and assess the effectiveness of federal, state, and local government agencies. Effective May 2000, however, Section 3003 of the Federal Reports Elimination and Sunset Act of 1995 terminated the requirement for an annual report to Congress.

Today the ACHP continues to serve as the only entity with the legal responsibility to encourage federal agencies to factor historic preservation into their planning requirements. Its newly adopted (2011) current mission statement is to promote the preservation, enhancement, and sustainable use of the nation's historic resources and to advise the President and Congress on national historic preservation policy. Its activities are focused primarily on three program areas: preservation initiatives; communications, education, and outreach; and federal agency programs (Advisory Council on Historic Preservation 2011a).

The ACHP is instrumental in the "Section 106" process providing guidance, advice, and technical assistance to all participants. The current version of the "Section 106" regulations, 36 C.F.R 800 (Protection of Historic Properties), were amended most recently in 2004 (Advisory Council on Historic Preservation 2004b). The regulations outline a process that consists of four primary phases and is based on the concept of consultation. The first step is to initiate a "Section 106" process, something done by a federal agency when it determines it is involved in an undertaking that could affect

historic properties, either included on the NRHP, or that meet the criteria for inclusion thereby making them eligible for the NRHP. In such instances, the federal agency must identify the appropriate SHPO or THPO to consult with, along with identifying other potential stakeholders and means through which to involve the public. The second step involves the lead federal agency determining the scope of appropriate identification efforts and then proceeding to identify historic properties in the area potentially affected by the planned undertaking. Based on consultation, expert assistance, and agency review, additional studies are conducted as necessary. Subsequent to this phase, determinations of NRHP eligibility are made for districts, sites, buildings, structures, and objects, based on the established criteria and in consultation with the SHPO or THPO, as well as Indian tribes and Native Hawaiian organizations when applicable. A formal determination of eligibility may be sought from NPS if there are questions about any particular property.

If the lead federal agency finds that no historic properties are present or affected by the proposed undertaking, it provides its finding to the SHPO or THPO and, barring any objections raised during a 30-day period, may proceed with the undertaking. If historic properties are present, however, the third phase of the process is initiated, which pertains to assessing the adverse effects on such properties. If a determination of an adverse effect is made, or if the parties cannot agree and the ACHP makes such a determination, then consultation begins on how to avoid, minimize, or mitigate the adverse effects. In this phase of consultations, the agency coordinates with the SHPO or THPO, local governments, permit or license applicants, other stakeholders, or members

of the public. The ACHP may also participate if there are substantial impacts to historic properties, when a case presents key policy or interpretation issues, when there is potential for procedural problems, or when issues concern Indian tribes or Native Hawaiian organizations. The consultation process usually results in a Memorandum of Agreement that outlines agreed-upon measures that the lead federal agency will take to avoid, minimize, or mitigate the adverse effects. In certain cases, the parties agree that no measures are possible and that the adverse effects are overall in the public interest. While the vast majority of cases are resolved at the state or tribal level, if agreement cannot be reached, the ACHP issues advisory comments which the head of the federal agency must consider before making a final decision on the project. While this process is applied to the majority of “Section 106” cases, agency officials may develop procedures to implement “Section 106” and substitute them for all or part of the aforementioned steps, assuming they are consistent with ACHP’s regulations and meet certain criteria. Provisions are also made for emergency situations and post-review discoveries, while special requirements are made in the case of National Historic Landmarks. In fulfilling its advisory role, the ACHP provides notable support and information to stakeholders and the public on undertaking or participating in the more than 100,000 undertakings that undergo “Section 106” review annually (Advisory Council on Historic Preservation 2001; Advisory Council on Historic Preservation 2002; Advisory Council on Historic Preservation 2004a; Advisory Council on Historic Preservation 2004b; Advisory Council on Historic Preservation 2011b; Advisory Council on Historic Preservation 2011c). The organization has also published specific guidance to federal agencies for the

management of archaeological resources as part of the “Section 106” process (Advisory Council on Historic Preservation 2009).

Part C of National Historic Preservation Subchapter, titled “General and Miscellaneous,” begins with definitions and includes a number of noteworthy provisions. Section 470w-3 describes the authority to withhold information from public disclosure. Federal agencies, along with other public officials receiving grant assistance, after consultation with the Secretary of the Interior, are allowed to withhold information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may either (a) cause a significant invasion of privacy; (b) risk harm to the historic resource; or (c) impede the use of a traditional religious site by practitioners. Access to withheld information is granted by the federal agency or other public official, in consultation with the Secretary of the Interior. Several federal and state agencies responsible for submerged cultural resources, including the NHHHC, rely upon this provision to prevent disclosure of the location of shipwrecks and aircraft wrecks for fear that public declaration of locations would harm the historic resources (personal communication with the Underwater Archaeology Branch, May 16, 2011). Given that protective measures are often much harder to apply in the case of submerged cultural heritage, this approach affords some protection to sites, but also exposes them to other dangers such as anchoring and trawling as the public is in large part unaware of their presence. To mitigate these concerns, while still withholding specific information on sites, one method used by the NOAA Office of Coast Survey is to label submerged cultural sites as “obstructions to navigation” on charts such as those based on the

Automated Wreck and Obstruction Information System (National Oceanic and Atmospheric Administration 2011). In this manner, accidental damage may be minimized, although many seeking underwater sites for diving or illicit purposes may see through such an approach.

Finally, Section 470x-2 pertains to the establishment of a National Center for Preservation Technology and Training (NCPTT) located at Northwestern State University of Louisiana. It is charged with developing and disseminating preservation and conservation skills and technologies, facilitating training for preservation professionals, administering a grant program, and cooperating with international organizations to promote heritage preservation. The NCPTT was created by the Historic Preservation Act Amendments of 1992 and continues to dedicate its mission to advancing the application of science and technology to historic preservation through research and grants (National Park Service 2011a). Several of the grants have pertained to maritime heritage. In 1996, the Ohio SHPO was awarded a grant to develop an expandable online database dedicated to the state's cultural resources, while in 1997 the Trustees of Boston University received a grant for a project dedicated to U.S. policy on the protection of submerged cultural resources beyond the three-mile limit (Linn 2011; National Park Service 2011b). More recently, in 2003 Stony Brook University was awarded a grant on the use of multibeam bathymetry in identifying and assessing underwater archaeological sites, something expanded upon in 2009, when the Lake Champlain Maritime Museum was awarded a grant to assess handheld multibeam sonar imagery of submerged sites (National Park Service 2011b; Striegel 2011). The NCPTT

has also supported a number of other maritime heritage-related initiatives such as highlighting the achievements and activities of the NPS Submerged Resources Center including work at the USS *Arizona*, the Dry Tortugas, Biscayne National Park, Lake Mead, Ellis Island, Yellowstone National Park, and Glacier National Park (Ferrell 2008a; Ferrell 2008b; Ferrell 2008c; Ferrell 2008d; Ferrell 2008e; Ferrell 2009). All resulting research and data are made available online for researchers to download.

*National Historic Lighthouse Preservation Act of 2000 (§ 470w7-470w8).*

Originally proposed as an amendment to the NHPA titled the National Historic Lighthouse Preservation Act of 2000, Section 470w-7 is of significant importance to the preservation of this category of maritime heritage. It charges the Secretary of the Interior with collecting and disseminating information concerning historic light stations, fostering related educational programs, sponsoring or conducting research on the history of light stations, and maintaining a listing of such stations. For the purposes of this section, historic light stations include the light tower, lighthouse, keepers dwelling, and all associated structures.

Most notably, the section establishes a requirement for the Secretary of the Interior to develop a process to identify, select, and convey historic light stations for education, park, recreation, cultural, or historic preservation purposes, as well as to monitor the use of light stations after they have been conveyed. This process places the Secretary in a position to act as the coordinating body responsible for assessing all applications for the conveyance of historic light stations once the agency with

administrative jurisdiction has declared it to be “excess property.” In consultation with the appropriate SHPO, the Secretary forwards a single approved application to the administrator. The United States reserves the right to remove, replace, or install any federal aid to navigation located at a historic light station to be conveyed. Any department or agency of the federal, state, or local government may apply to the program, along with non-profit corporations, educational agencies, or community development organizations.

The receiving party is required to maintain the historic light station in accordance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties (Department of the Interior 2001). Conveyed light stations must be made available to the general public at reasonable times and under reasonable conditions, and the successful applicants may not sell, exchange, or convey historic light stations, or parts thereof, without the approval of the Secretary of the Interior. Commercial activities at the historic light stations must also be approved, with the government maintaining the right to ensure compliance with the NHPA. If the receiving party violates any of these provisions, the light station may revert to the United States under the administrator’s control. If no applicants are approved for the conveyance of a historic light station, the light station is then offered for sale, however with covenants to protect its historical integrity. Net proceeds of historic light stations sales located on public domain lands are transferred to the National Maritime Heritage Grant Program (see below), or, if administered by the Coast Guard, credited to the Coast Guard’s operating expenses for the maintenance of light stations that remain under its control. The program follows the guidelines set forth



in 36 C.F.R. 60 (National Register of Historic Places) and 36 C.F.R. 63 (Determinations of Eligibility for Inclusion in the National Register of Historic Places).

The National Pilot Program was launched in 2001, and by 2010 there had been 43 no-cost transfers and 15 public sales of light stations located in 20 states (U.S. Department of the Interior 2010:1). More than a third were transferred to state and local governments; only two were conveyed to federal agencies, while the majority of agreements were with non-profit organizations (U.S. Department of the Interior 2010:2). The program peaked in 2006, overseeing 11 transfers, but outstanding environmental issues and state bottomland ownership issues have reduced the number of annual conveyances since that time, although progress was noted on the state bottomlands ownership issues in 2009 (U.S. Department of the Interior 2010:2-3). The current framework of the program is administered jointly by a number of agencies: the U.S. Coast Guard identifies and reports historic light stations for disposal; the General Services Administration issues Notices of Availability and works with the U.S. Coast Guard to arrange for open houses at the properties; the NPS provides applications to interested parties and reviews and evaluates submissions; and the applicable SHPO provides consultation during and after the transfer of ownership (U.S. Department of the Interior 2011c; USA.gov 2011).

***Protection and Enhancement of the Cultural Environment (Executive Order 11593).*** The NHPA was strengthened by Executive Order 11593 issued by President Nixon in 1971 stating that the federal government must act as a leader in preserving,

restoring and maintaining the historic and cultural environment of the nation. The Executive Order directed federal agencies to establish plans, policies, and programs to administer cultural properties under their ownership, and to coordinate with the Advisory Council on Historic Preservation to establish procedures that contribute to the preservation of non-federally owned sites. Setting an ambitious objective, the Executive Order required federal agencies to work with the Department of the Interior and SHPOs to locate, inventory and nominate all sites, buildings, districts, and objects under their jurisdiction that qualified for listing on the NRHP. To further act upon what was viewed as a pressing need, the Secretary of the Interior was charged anew with developing criteria for NRHP eligibility in consultation with affected agencies. At the time, only historic properties on the NRHP qualified for the protective measures afforded by NHPA, and hence the drive to bolster the nomination rates.

***Archaeological Resources Protection (16 U.S.C. 1B § 470aa-470mm)***

The Archaeological Resources Protection Act was passed in 1979 to specifically address archaeological resources on public and Indian lands that were appearing increasingly endangered due to their commercial value and uncontrolled looting. Through Section 470aa Congress declared that existing federal laws did not provide adequate protection to prevent the loss and destruction of these resources and that more needed to be done to foster cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data obtained legally prior to October 31, 1979.

In the first definition of the term *archaeological resource*, ARPA defers to the regulations promulgated pursuant to the Act but broadly states that it should include “any material remains of past human life or activities which are of archaeological interest” (16 U.S.C. 1B § 470bb [1]). The definition does, in a non-inclusive list, note a series of resources that are protected, but none are directly related to maritime heritage resources. Interestingly, human skeletal remains are included within the definition; at the same time, non-fossilized and fossilized paleontological specimens, unless found in an archaeological context, are expressly not. In addition, in order for any item to be treated as an archaeological resource, the definition requires that that item is at least 100 years of age.

The same Section (470bb) also defines “public lands” to mean lands owned and administered by the United States as part of the national park system, the national wildlife refuge system, the national forest system, in addition to all other lands which the United States holds fee title to, except for lands managed by the Smithsonian Institution and those on the Outer Continental Shelf (OCS) (see below). Additional definitions are offered for “Indian lands” and “person” which in this case covers individuals, corporations, partnerships, trusts, institutions, associations, any other private entity, as well as any officers, employees, agents, departments, or instrumentalities of the United States, Indian tribes, any State, or political subdivision thereof (16 U.S.C. 1B § 470bb [6]).

The following Section (470cc) is dedicated to permits pertaining to excavations and the recovery of artifacts. Any person may apply to the applicable federal land

manager for a permit to excavate or remove archaeological resources from public or Indian lands and to carry out associated activities. Each federal land manager is authorized to require applications to include what information is deemed necessary, such as the time, scope, location, and specific purpose of the proposed work. Permits may be issued if the federal land manager determines, as per uniform regulations, that the applicant is qualified to carry out the proposed activity, that the activity is aimed at furthering archaeological knowledge in the public interest, and that the activity is not inconsistent with any applicable management plan pertaining to the public lands concerned. The final criterion is that archaeological resources that are removed or excavated remain property of the United States and that such resources, along with associated records and data, are to be preserved at a suitable scientific or educational institution. The federal land manager is also authorized to set the terms and conditions of a permit, pursuant to promulgated uniform regulations, and must identify the individual responsible for carrying out the terms. Indian tribe members are allowed to act without a permit if within the lands of their tribe, unless tribal law dictates otherwise, while permits cannot be issued to non-Indian tribe members without the consent and any terms imposed by the applicable Indian or Indian tribe.

In recognizing the potential overlap and the need supersede the American Antiquities Act of 1906, Section 470cc(h) states that activities issued a permit under the provisions of ARPA do not require a permit under the AA. At the same time, activities issued permits under the AA before October 31, 1979, did not require an ARPA permit and were neither modified nor affected. However, through clear implication, any

activities qualifying for a permit post-dating October 31, 1979 required an ARPA permit, effectively sidelining the AA permitting provision. In taking into account potential overlap with NHPA, Section 470cc(i) states that issuing a permit under ARPA and its applicable regulations is exempt from complying with the Section 106 process. In balancing state with federal authority, Section 470cc(j) states that the federal land manager must issue a permit, subject to the aforementioned provisions, upon written request from a governor pertaining to archaeological research, excavation, removal, and curation of archaeological resources on behalf of the state or its educational institutions.

Section 470dd pertains to the custody of archaeological resources and charges the Secretary of the Interior to promulgate regulations pertaining to the responsible exchange of archaeological resources removed from public or Indian lands, the ultimate disposition of such resources, along with those recovered under the AA and the Reservoir Salvage Act of 1960.

ARPA, in Section 470ee, prohibits the attempted or actual excavation, removal, damage, or alterations of archaeological resources on public and Indian lands, unless a permit has been issued or the activity is exempted (with the exception of removing arrowheads located on the surface of the ground). As part of a strict provision intended to dissuade any perceived separation between a party that illegally obtains an archaeological resource and one that receives it at a later time, archaeological resources excavated from public or Indian lands in violation of ARPA may not be sold, purchased, exchanged, transported, received, or even offered for sale, purchase, or exchange. Furthermore, persons may not purchase, exchange, transport, receive, or offer to sell,

purchase, or exchange in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of state or local law. Violations carry the penalty of up to \$10,000 fine and/or an imprisonment of up to a year. However, the potential penalties increase to \$20,000 and/or up to two years of imprisonment if the commercial or archaeological value of the resources affected and the cost to restore and repair them exceeds \$500 (following a 1988 amendment that revised the original \$5,000 limit). To strongly discourage second or subsequent violations, convictions in such cases carry a fine of up to \$100,000 and/or an imprisonment of up to five years. Federal land managers are furthermore given the authority to assess civil penalties, following due process that includes a notice of violation and hearing. Additionally, vehicles and equipment utilized by persons convicted under Section 470ee, assessed a civil penalty under Section 470ff, or as otherwise determined by the court, in connection with the unauthorized activity are subject to forfeiture to the United States – together with all archaeological resources that were affected. Finally, federal land managers are authorized to issue rewards to persons who furnish information which leads to the findings of a civil violation or the conviction of a criminal violation.

Another noteworthy provision of ARPA concerns the disclosure of information pertaining to the nature and location of any archaeological resource for which an excavation or removal permit is issued. Such information may not be made public unless the applicable federal land manager determines that such disclosure would either further the purposes of ARPA or the Reservoir Salvage Act of 1960, or not create a risk of harm

to the resources or the site. In the same Section (470hh), governors are allowed to request disclosure of such information through a written request that identifies the specific site or area, the purpose for seeking such information, and a commitment to adequately protect the confidentiality of such information in order to protect the resource from commercial exploitation.

In the concluding Sections (470ii-470mm), ARPA charges federal land managers with developing uniform regulations, programs to enhance public awareness of the significance of archaeological resources, and to take actions necessary to improve cooperation between individuals having private collections of archaeological resources and data obtained prior to the enactment of ARPA, federal authorities responsible for the protection of archaeological resources on public and Indian lands, and professional (associations of) archaeologists. The Secretary of the Interior is charged with producing an annual report to Congress pertaining to the implementation of ARPA provisions and making recommendations for changes or improvements to the law. Finally, the Secretaries of the Interior, Agriculture, Defense and the Chairman of the Board of the Tennessee Valley Authority must develop plans to survey lands under their control in order to assess the extent of archaeological resources on those lands and develop documents for the reporting of suspected violations. As a result, this statute has produced a number of promulgating regulations including 43 C.F.R. 7 (Protection of Archaeological Resources), as well as 36 C.F.R. 296 (Protection of Archaeological Resources: Uniform Regulations [Forest Service]), 18 C.F.R. 1312 (Protection of Archaeological Resources: Uniform Regulations [Tennessee Valley Authority]), and 32

C.F.R. 229 (Protection of Archaeological Resources: Uniform Regulations [National Defense]. ARPA has been successfully applied in protecting submerged cultural resources, as in the example of *U.S. v. Hampton* (Nos. P169925, P169927, and P169928 [S.D. Fla 1986]) where the United States brought a case against a salvor for engaging in unauthorized activities in Florida's Key Biscayne National Park, whose submerged lands belong to the United States (Hutt, et al. 2004:129; Zander and Varmer 1996).

***Marine Sanctuaries (16 U.S.C. 32 § 1431-1445c-1)***

The National Marine Sanctuaries Act (NMSA) was originally enacted in 1972 as The Marine Protection, Research, and Sanctuaries Act and has since been amended 15 times, six of them substantively (1980, 1984, 1988, 1992, 1996, 2000) (National Oceanic and Atmospheric Administration 2011n; U.S. Department of the Interior 2006e:104). In its current form, it recognizes that certain areas of the marine environment possess a variety of qualities (conservation, recreational, ecological, historical, scientific, educational, cultural, archaeological, or esthetic) which give them special national or international significance. Cultural resources were specifically added among these contributing qualities during the 1992 amendments to the legislation (National Oceanic and Atmospheric Administration 2011n). In its current form, the NMSA states that while resource-specific legislation had previously had the effect of controlling particular activities, special areas of marine environment needed to be managed as a whole in order for a coordinated and comprehensive approach to develop. The resulting National Marine Sanctuary System now aims at improving the conservation, management, and



sustainable use of marine resources, enhancing public awareness and appreciation of the marine environment, and preserving these areas and their resources for future generations. Important to note is that the “marine environment” is defined in the NMSA as “coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law” (16 U.S.C. 32 § 1432 [3]). This provides for a powerful way to promote maritime heritage conservation in an area where other protective measures do not apply.

The prescribed purposes of the NMSA are to a) identify, designate and manage national marine sanctuaries as part of the National Marine Sanctuary System; b) provide for a comprehensive, complementary, and coordinated conservation and management authority; c) protect, maintain, restore, and enhance natural biological populations, habitats, and ecological processes; d) enhance public awareness and sustainable use of the marine environment, along with the natural, historical, cultural, and archaeological resources within the sanctuary system; and e) support and coordinate scientific research and the long-term monitoring of resources within the sanctuaries. Additionally, the NMSA requires coordination and facilitation of various uses of sanctuary resources provided they are compatible with overall resource protection, the development of management plans that take into account the positions of any stakeholders, as well as the adoption of innovative management techniques and global partnerships.

Sanctuary designations are based on the Secretary of Commerce determining that an area meets five criteria that include a) consistency with NMSA purposes and policies;

b) national significance in one of the prescribed fields, the living marine resources it harbors, or its resource or human-use values; c) existing state and federal authorities are inadequate in meeting their related objectives; d) designation will facilitate management of an area, including resource protection, scientific research, and public education; and e) the area is of a size and nature that will permit comprehensive and coordinated conservation and management. The last criterion is interesting as it represents a departure from the policy adopted in the AA with national monuments, requiring them to be the smallest possible size compatible with their purpose. Additional factors for sanctuary designation include the area's natural and ecological qualities, and its historical, cultural, archaeological, or paleontological significance. The present and potential uses of the area also play a role, both in attempting to preserve them in the case of commercial or recreational activities, as well as in factoring the potential adverse effect they may have on the quality of resources within the proposed sanctuary.

The public benefits derived from sanctuary status, such as the long-term protection of nationally significant resources, habitats and tourism potential, are to be contrasted with the negative impacts produced by management restrictions on income-generating activities. The overall socioeconomic effect of sanctuary designation must be assessed along with its scientific value. Finally, the proposed area must be viewed in terms of adding importance to the system as a whole and contributing to the employment of innovative management approaches to balance compatible uses or protect resources. In making determinations, the Secretary of Commerce is charged with consulting with Congress, federal agencies (including the Departments of State, Defense, Transportation,

and the Interior), state and local governments (including coastal zone management agencies), and the appropriate Regional Fishery Management Council established by the Magnuson-Stevens Fishery Conservation and Management Act.

Finally, the Secretary of Commerce must find that the addition of a new sanctuary will not have a negative impact on the System as a whole, and that sufficient resources are available in the fiscal year in which the finding is made to implement sanctuary management plans. Complete site characterization studies and an inventory of sanctuary resources (including cultural resources) must be completed within 10 years after the date of the finding. A further limit is placed within the legislation that the findings pertaining to the designation of new sanctuaries must be presented to Congress by 2004. Together these provisions of the NMSA have been interpreted by some as an effective moratorium on new sanctuary designations (Chandler and Gillelan 2005:28).

Section 1434 outlines the procedures for designating and implementing marine sanctuaries. The process includes publishing a public notice, proposed regulations and a draft management plan in the Federal Register, and directly informing the communities affected by the proposal. The proposal itself must include a draft environmental impact statement pursuant to the National Environmental Policy Act of 1969 (NEPA), a resource assessment, a proposed management plan, maps depicting the boundaries of the proposed sanctuary, the basis for the determination, and an assessment of the aforementioned factors. The designation process also requires one or more public hearings, coordination with the Regional Fishery Management Council, and an opportunity for Congressional Committee Action. For a designation to take effect, the

Secretary of Commerce must publish a notice in the Federal Register, along with final regulations implementing the designation, and submit notice to Congress. Eventually, the final environmental impact statement and the final management plan must also be made public. Following the opportunity for Congress to comment, a designation takes effect within a time-frame of 45 days. Interestingly, however, when a proposed sanctuary is located partially or entirely within the seaward boundary of any state, the governor of that state may inform the Secretary of Commerce during this period that the designation or any of its terms are unacceptable, in which case the designation or the unacceptable term(s) may not take effect in the area of the sanctuary lying within state waters. This ensures that the state is fully in support of federal action to declare a portion of its waters a national marine sanctuary. In the case of the Hawaiian Islands Humpback Whale National Marine Sanctuary, such coordination with the State of Hawaii took over four years (Hawaiian Islands Humpback Whale National Marine Sanctuary 2009). Overall, this is a fairly comprehensive process that allows for all major stakeholders to comment, provide input, and even directly affect the outcome of a proposed designation. The collaborative approach does not end with a sanctuary designation. Following designations, federal agencies whose actions (including licenses, leases, or permits), whether internal or external to a sanctuary, are likely to injure, destroy, or cause the loss of a sanctuary resource, must consult with the Secretary of Commerce and have actions reviewed and approved. The currently authorized National Marine Sanctuaries are presented in Table 4, while their respective location is identified in Figure 3. As of June 2006, the National Marine Sanctuary System also includes Papahānaumokuākea Marine

National Monument which encompasses nearly 140,000 square miles surrounding the Northwestern Hawaiian Islands (U.S. Department of Commerce 2009).



**FIGURE 3.** *Distribution of National Marine Sanctuaries and National Marine Monuments within NOAA's National Marine Sanctuary System (National Oceanic and Atmospheric Administration 2012).*

The Act continues in Section 1435 by encouraging international cooperation and authorizing the Secretary of State, in consultation with the Secretary of Commerce, to make agreements with foreign governments to promote the protection of any sanctuary along with the purposes for which a sanctuary was established. Section 1440 authorizes the Secretary of Commerce to conduct, support, or coordinate research, monitoring, evaluation, and education programs surrounding sanctuary resources and natural

processes that occur within the sanctuaries. Such research includes exploration, mapping, and environmental and socioeconomic assessments. Also of particular note to maritime heritage resources is that the Secretary may specifically support, promote, and coordinate research on the cultural, archaeological, and historical resources of sanctuaries. The Secretary may also provide for the conservation, curation, and public display of such resources while Section 1445, specifically mentions artifacts and materials originating from USS *Monitor*. Results of all such research and conservation efforts must be made available to the public, and, as a means to partially accomplish this end, the Secretary is authorized to develop interpretive facilities near any national marine sanctuary. As noted earlier, consultation with federal, interstate, or regional agencies, along with state and local governments is required.

**TABLE 4.** *The National Marine Sanctuaries*

National Marine Sanctuary	Pertinent Regulations, Notices, and Varia
Channel Islands National Marine Sanctuary	45 F.R. 65198, Oct. 2, 1980; 15 C.F.R. part 922, subpart G.
Cordell Bank National Marine Sanctuary	54 F.R. 22417, May 24, 1989; 15 C.F.R. part 922, subpart K; Pub. L. 100-627, title II, §205(a)(1), Nov. 7, 1988, 102 Stat. 3217.
Fagatele Bay National Marine Sanctuary	51 F.R. 15878, Apr. 29, 1986; 15 C.F.R. part 922, subpart J.
Florida Keys National Marine Sanctuary	15 C.F.R. part 922, subpart P; Pub. L. 101-605, Nov. 16, 1990, 104 Stat. 3089, as amended by Pub. L. 102-587, title II, §§2206, 2209, Nov. 4, 1992, 106 Stat. 5053, 5054.

**Table 4. Continued**

National Marine Sanctuary	Pertinent Regulations, Notices, and Varia
Flower Garden Banks National Marine Sanctuary	56 F.R. 63634, Dec. 5, 1991; 60 F.R. 10312, Feb. 24, 1995; 15 C.F.R. part 922, subpart L; Pub. L. 100-627, title II, §205(a)(2), Nov. 7, 1988, 102 Stat. 3217; Pub. L. 102-251, title I, §101, Mar. 9, 1992, 106 Stat. 60; Pub. L. 104-283, §8, Oct. 11, 1996, 110 Stat. 3366.
Gerry E. Studds Stellwagen Bank National Marine Sanctuary (former Stellwagen Bank National Marine Sanctuary)	58 F.R. 53865, Oct. 19, 1993; 59 F.R. 53348, Oct. 24, 1994; 15 C.F.R. 922, subpart N; Pub. L. 102-587, title II, §2202, Nov. 4, 1992, 106 Stat. 5048; Pub. L. 104-283, §§9(g), 11, Oct. 11, 1996, 110 Stat. 3368, 3369.
Gray's Reef National Marine Sanctuary	46 F.R. 7942, Jan. 26, 1981; 15 C.F.R. part 922, subpart I.
Gulf of the Farallones National Marine Sanctuary (former Point Reyes-Farallon Islands National Marine Sanctuary)	46 F.R. 7936, Jan. 26, 1981; 15 C.F.R. part 922, subpart H; 62 F.R. 3788, Jan. 27, 1997.
Hawaiian Islands Humpback Whale National Marine Sanctuary	15 C.F.R. part 922, subpart Q; Pub. L. 102-587, title II, subtitle C, §§2301-2308, Nov. 4, 1992, 106 Stat. 5055-5059; Pub. L. 104-283, §7, Oct. 11, 1996, 110 Stat. 3365.
MONITOR National Marine Sanctuary	40 F.R. 5349, Feb. 5, 1975; 40 F.R. 21706, May 19, 1975; 15 C.F.R. part 922, subpart F.
Monterey Bay National Marine Sanctuary	57 F.R. 43310, Sept. 18, 1992; 15 C.F.R. part 922, subpart M; Pub. L. 100-627, title II, §205(a)(3), Nov. 7, 1988, 102 Stat. 3217; Pub. L. 102-368, title I, §102, Sept. 23, 1992, 106 Stat. 1119; Pub. L. 102-587, title II, §2203, Nov. 4, 1992, 106 Stat. 5048.
Olympic Coast National Marine Sanctuary	59 F.R. 24586, May 11, 1994; 15 C.F.R. 922, subpart O; Pub. L. 100-627, title II, §205(a)(4), Nov. 7, 1988, 102 Stat. 3217; Pub. L. 102-587, title II, §2207, Nov. 4, 1992, 106 Stat. 5053.
Thunder Bay National Marine Sanctuary and Underwater Preserve	65 F.R. 39042, June 19, 2000; 15 C.F.R. part 922, subpart R.

Part of fostering research, monitoring, and evaluation involves the issuance of permits to external collaborators. Section 1441 is dedicated to special use permits, authorized to establish conditions of access to and use of sanctuary resources, and to promote public use and understanding of the same. Permits are only allowed to authorize activities compatible with the purposes of the sanctuary and with the protection of sanctuary resources in mind. They may be in effect for up to 5 years (unless renewed) and require the permittee to purchase and maintain comprehensive general liability insurance. For the purposes of maritime heritage research, it is important to underline that permitted activities may not destroy, cause the loss of, or injure sanctuary resources. Aimed at preserving natural resources, such a provision's effect on activities like archaeological excavations is not clear. As a result, when it comes to archaeological research permits, the NOAA has turned to Section 1439 which grants the Secretary authority to issue regulations as necessary to carry out the NMSA (see 15 C.F.R. 922 for a comprehensive set of sanctuary regulations). Such is the case at the Florida Keys National Marine Sanctuary, where the sanctuary has established a maritime heritage resource permitting program based on 15 C.F.R. 922.166b (Florida Keys National Marine Sanctuary 2011c). The three-phase permitting regime separates "survey and inventory" from the more intrusive "research and recovery" investigations, and even includes a provision for de-accessioning and transferring, assuming artifacts no longer hold any historical interest. The sanctuary furthermore maintains "Research-only Areas" which are "no-entry" zones set aside for research purposes and works in close cooperation with the Florida Division of Historical Resources (Florida Department of



State: Division of Historical Resources N.d.-b; Florida Keys National Marine Sanctuary 2011b; Florida Keys National Marine Sanctuary 2011c). In Thunder Bay National Marine Sanctuary, whose focus is limited exclusively to underwater cultural resources, the permitting of activities otherwise prohibited within the sanctuary is dictated through a Programmatic Agreement with the State of Michigan and the Advisory Council on Historic Preservation (Department of Commerce 2000). The State archaeologist certifies to the NOAA that the activity is consistent with the agreement that is in place, at which point the State Permit is deemed to meet the requirements of the sanctuary regulations. In instances involving the recovery of underwater cultural resources, the proposed activity must meet the requirements of sanctuary regulations, the recovery must be in the public interest, and it must also form part of research aimed at preserving historic information (National Oceanic and Atmospheric Administration 2009c). The State of Michigan, Department of Environmental Quality, Land and Water Resource Management Division is responsible to review such permits. If a state permit is not certified as consistent with the Programmatic Agreement or if only a federal permit is applicable, the applicant is required to follow procedures to obtain an individual sanctuary authorization, which would also be subject to “Section 106” of NHPA (Department of Commerce 2000).

To encourage monitoring and coordination, Section 1445a authorizes the establishment of one or more advisory councils to support and make recommendations in the designation and management of national marine sanctuaries. The section, part of the 1992 amendments, outlines the composition of such councils which may include up

to 15 representatives from federal and state agencies with expertise in management of natural resources, Regional Fishery Management Councils, local user groups, conservation, and other public interest organizations, scientific or educational organizations, and others (National Oceanic and Atmospheric Administration 2011n). Of note, and perhaps indicating the same original resource-type leanings of NMSA as the special permitting provisions, federal and state agencies with expertise in management of cultural resources are not identified as eligible for council membership. Such representatives, however, do serve on the Monitor National Marine Sanctuary Advisory Council, likely under the “others interested in the protection and multiple use management of sanctuary resources” (16 U.S.C. 32 § 1445a [b] 3). Advisory Council meetings must be published locally in advance, open to the public, and interested persons must be permitted to present oral or written statements.

To encourage sanctuary development, Section 1442 of the NMSA authorizes the solicitation of donations of funds, property, and services, the acceptance of grants, as well as the purchase, lease, or exchange of facilities or property necessary to carry out the sanctuary mandate. Such support for growth is further bolstered in Section 1445b, where the Secretary of Commerce is authorized to create a symbol for the national marine sanctuary system, to solicit and designate official sponsors of the system or individual sanctuaries and allow them to manufacture and sell items associated with the system or individual sanctuaries, to create, market, and sell products to promote the system, and to solicit, retain, and expend in-kind contributions without appropriation. Furthermore, the Secretary of Commerce may enter into agreements with non-profit

partner organizations in order to assist with the administration of the sponsorship program. Finally, to foster the growth and development of marine sciences, Section 1445c implements the Dr. Nancy Foster Scholarship Program administered through the National Ocean Service. The purpose of the program is to recognize outstanding graduate-level scholarship in oceanography, marine biology, and maritime archaeology, particularly among women and members of minority groups and to encourage graduate-level research in these fields. Interesting to note is that maritime archaeology is defined in such a way that it includes curation, preservation, and display of maritime artifacts, which exceeds the traditional boundaries of archaeological research and enables a greater number of applicants to be considered. A full 1 percent of annual appropriations specified to carry out the NMSA must be awarded via the scholarship. Nearly fifty graduate students have benefited from this important program (National Oceanic and Atmospheric Administration 2011m).

In order to protect sanctuary resources, the NMSA also addresses prohibited activities within sanctuaries. According to Section 1436, it is unlawful to destroy, injure, or cause the loss of any sanctuary resource managed under law or sanctuary regulations. As with ARPA, prohibitions extend further; it is also unlawful to possess, sell, offer for sale, purchase, import, export, deliver, carry, transport, or ship any sanctuary resource taken without authorization, as well as break provisions of permits or applicable regulations. Finally, interfering with the enforcement of the NMSA is itself a prohibited activity. Enforcement forms the basis of Section 1437 which outlines the extensive actions authorized in this regard, including the seizure of any resource taken or retained

in violation of the Act, subsequent regulations, or permitting provisions. Criminal offenses are punished by fines and imprisonment of up to 6 months, while civil penalties may extend up to \$100,000 for each violation, as assessed by the Secretary of Commerce (though this limit is noted as ranging up to \$130,000 on the NOAA Office of National Marine Sanctuaries website) (National Oceanic and Atmospheric Administration 2011o). As with the Sunken Military Craft Act, each day of continuing violation is regarded as a separate violation. Penalties may not be assessed until after the person charged has been given notice and an opportunity for a hearing. Vessels utilized in violating the NSMA, or subsequent regulations and permitting provisions, are liable *in rem* for any civil penalty assessed for such violation. Such vessels, along with other items utilized in connection with or as a result of any violation, are also subject to forfeiture pursuant to civil proceedings. Finally, violators may also be assessed a civil penalty for the reasonable costs associated with the storage, care, and maintenance of any sanctuary resource seized in connection with the violation. The Secretary of Commerce, however, may compromise, modify, or remit any civil penalty that results from violations of this section, allowing for certain flexibility in assessing ramifications of violations. Amounts received under this section may be used for a variety of purposes, including the care of affected sanctuary resources, managing and improving the affected national marine sanctuary (or other sanctuary), and also pay a reward to any person that furnishes information leading to an assessment of a related civil penalty or to a forfeiture of property. Further liabilities are established under Section 1443, whereby any person who destroys, injures, or causes the loss of sanctuary resources is liable to the United States

for an amount equal to the costs and damages resulting from such actions, along with calculated interest. To qualify as a violation, however, the destruction, injury, or loss may not be negligible. Finally, response costs may also be assessed as may damages in an amount needed to restore, replace, or acquire the equivalent sanctuary resources that were the subject of the action. In particular, this latter provision itemizes the costs of curation and conservation of archaeological, historical, and cultural sanctuary resources.

The NMSA provides one of the strongest legal mandates in favor of submerged cultural heritage preservation given its important provisions forbidding its unauthorized recovery, and its substantial enforcement provisions. It is worth mentioning that every action brought under the NMSA concerning submerged cultural resources to date (e.g. *Gentile v. NOAA* [6 O.R.W. a, 1990 NOAA LEXIS 50, January 4, 1990], *United States v. Craft* [6 O.R.W. 150, 1990 NOAA LEXIS 29], *United States v. Fisher* [977 F. Supp. 1193, S.D. Fla. 1997]) has been resolved in favor of the United States (Hutt, et al. 2004:126-128; Zander and Varmer 1996).

***Reauthorization of the National Marine Sanctuary Act.*** The current NMSA, enacted in November 2000 (Pub. Law 106-513) authorized appropriations to the end of fiscal year 2005. While its expiration does not mean that its authority eclipses, and Congressional funding has been provided since that time, there has been an ongoing attempt to reauthorize the NMSA that spans back to at least 2007. The Sanctuary Enhancement Act of 2008, as the proposal is titled, was put forth as House Resolution

6537 and subsequently forwarded to the Committee on Natural Resources (National Oceanic and Atmospheric Administration 2009b; Sanctuary Enhancement Act of 2008).

The proposed Bill aims at more than simply extending NMSA's funding appropriation. It lays out a comprehensive view of the system as a whole, bringing in marine national monuments on par with national marine sanctuaries. It also provides for an ecosystem-based model of resource management. When it comes to maritime heritage in particular, there are a number of proposed changes. To begin with, "maritime heritage resource" is defined as "any shipwreck or other site or object that is of archaeological, historical, or cultural significance found in, on, or under the seabed of the marine environment of the United States" (Sanctuary Enhancement Act of 2008:7). Notably, the Bill would require the Secretary to prepare a report that would include a comprehensive identification of the nation's maritime heritage resources, and maintain and update it as a national inventory of maritime heritage resources under the jurisdiction of the United States (Sanctuary Enhancement Act of 2008:8-9). Within 12 months of enactment, the Secretary, in consultation with a wide range of stakeholders, would be required to produce appropriate methodologies and guidelines for the identification of nonliving submerged archaeological, historical, and cultural resources. Within three years of enactment, the Secretary would be required to submit a report to Congress that includes the identification of maritime heritage resource areas within the EEZ. Finally, a year later, and in consultation with stakeholders, the Secretary of Commerce would be charged with producing a report that includes a site selection list identifying and justifying priority sites for designation as national marine sanctuaries. Every five years

thereafter, the priority site report would have to be updated, and an overall goal would be set to encompass the full range of the nation's maritime heritage resource areas within the sanctuary system by 2030 (Sanctuary Enhancement Act of 2008:9,10,12,13). Naturally, in order to accomplish this ambitious plan of growth, the current limitation on designating new national marine sanctuaries (16 U.S.C. 1434[f]) would be repealed, while the Bill proposes significant appropriations for the forthcoming years (Sanctuary Enhancement Act of 2008:13,37-38). Regarding its conservation provisions, in any area administered as part of the system, maritime heritage resources could not be disturbed or removed, while the Secretary of Commerce would be allowed to withhold information that could threaten or jeopardize the long-term protection, preservation, conservation, or stewardship of any maritime heritage resource (Sanctuary Enhancement Act of 2008:10,17). Enforcement provisions would be significantly stricter with the potential imprisonment provisions changed to 2 years and civil penalties augmented up to \$250,000 (Sanctuary Enhancement Act of 2008:18-19). Special permit requirements would remain the same under the proposed Bill, including the stipulation that permitted activities may not destroy, cause the loss of, or injure sanctuary or system resources. The same holds true for the provision on Advisory Council membership being limited to federal and state agencies with natural resource management experience (Sanctuary Enhancement Act of 2008:29-35). Overall, the proposed Bill would position the NOAA to be the pre-eminent federal program responsible for the nation's maritime heritage and in the process potentially preserve multitudes of maritime cultural resources that otherwise may be in jeopardy.

While working towards the reauthorization of the NMSA, the Department of Commerce has also turned to other legislation to allow for the National Marine Sanctuary System to expand (National Oceanic and Atmospheric Administration 2011o). This approach reaches back to earlier initiatives such as the Florida Keys National Marine Sanctuary and Protection Act (Pub. Law 101-605) which was designated in 1990 in part by consolidating Key Largo and Looe Key national marine sanctuaries, each originally designated by the NMSA in 1977 and 1981 (Florida Keys National Marine Sanctuary 2011a). The Hawaiian Islands National Marine Sanctuary and Protection Act (Public Law 102-585) designated the Hawaiian Islands Humpback Whale National Marine Sanctuary in 1992 (Hawaiian Islands Humpback Whale National Marine Sanctuary Act ; Hawaiian Islands Humpback Whale National Marine Sanctuary 2009). The Oceans Act of 1992 (Pub. Law 104-283) was utilized to designate Stellwagen Bank National Marine Sanctuary. Stetson Bank was added to the Flower Garden Banks National Marine Sanctuary through the National Marine Sanctuaries Preservation Act of 1996. Following a separate approach, the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve was created on December 4, 2000 via Executive Order 13178, as authorized by the National Marine Sanctuaries Amendments Act of 2000 (Pub. Law 106-513). With the apparent moratorium on the creation of new sanctuaries through the NMSA, the latest member of the National Marine Sanctuary Program, Papahānaumokuākea Marine National Monument, was added in 2006 via Presidential Proclamation 8031, based on the authority imparted upon the president by the Antiquities Act of 1906, which as aforementioned is under consideration for revision



(Govtrack.us 2011). While the future of the re-authorization effort is still to be determined, the grounds for a potential paradigm shift were laid a decade ago in another Executive Order, which goes beyond the national marine sanctuaries and aims at developing a systematized approach of marine protected areas across the country.

***Marine Protected Areas (Executive Order 13158)***. Following a series of NMSA amendments in 1984, 1992, and 1996, and only months prior to the National Marine Sanctuaries Amendments Act of 2000, President Clinton issued Executive Order 13158 on Marine Protected Areas (MPAs). The Executive Order aimed at strengthening and expanding the nation's system of marine protected areas to enhance the conservation of cultural and natural resources and promote an economically sustainable use of the marine environment. In this case, marine protected areas meant any marine area reserved by federal, state, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein. The three priorities outlined in the document focus on a) the sound management, protection, and conservation of existing MPAs and establishing new or expanded MPAs; b) the development of a scientifically based, comprehensive, and representative system of national MPAs; and c) limiting harm caused to MPAs through federally conducted, approved, or funded activities.

To implement these stated objectives, federal agencies are directed to enhance or expand protection of existing MPAs and to establish or recommend new ones. At the same time, the Department of Commerce and the Department of Interior, in consultation

with a series of other federal agencies, were tasked with developing a national system of MPAs and given certain guiding principles. These include integrated assessments, a science-based identification and prioritization of cultural and natural resources, an assessment of gaps in levels of protection, science-based protocols for monitoring and evaluating the effectiveness of MPAs, an assessment of economic effects of preferred management solutions, identification of emerging threats and effective enforcement strategies, and improved international collaboration. The Executive Order also formed the Marine Protected Area Federal Advisory Committee composed of non-federal scientists, resource managers, and organizations. The NOAA was charged with instituting a Marine Protected Area Center to develop a framework for a national system, disseminate information, tools, and strategies and establish a website on MPAs.

The resulting National Marine Protected Area Center was established in 2000, and, by 2009, with the publication of the *Framework for the National System of Marine Protected Areas of the United States of America*, the national system of MPAs was implemented (National Oceanic and Atmospheric Administration 2008). The document was a result of a first draft published for comment between 2006 and 2007 and received 11,000 responses from 100 individual commenters, and a second draft that was published in 2008 which received 34 comment submissions. Beginning with a pilot project off California, the system grew by inventorying MPAs on the West coast of the United States and eventually developed an inventory of over 1600 MPAs nationwide (National Oceanic and Atmospheric Administration 2011e:1). By spring 2011, 297 of these MPAs were members (and 723 were deemed eligible to be members) of the

national system that initially aims at being an assemblage of existing sites, systems and networks established and managed by all levels of government (National Oceanic and Atmospheric Administration 2008:2; National Oceanic and Atmospheric Administration 2011h:2). In order to systematize this diverse group of MPAs, the Center has developed common definitions and classifications pertaining to their conservation focus, as well as their levels, permanence, constancy, and scale of protection (National Oceanic and Atmospheric Administration 2011d).

One of the three primary conservation foci is entitled “cultural heritage” and applies to MPAs or zones “established and managed wholly or in part to protect and understand the legacy of physical evidence and intangible attributes of a group or society which is inherited and maintained in the present and bestowed for the benefit of future generations” (National Oceanic and Atmospheric Administration 2011d:4). Only 7 percent of MPAs currently part of the national system are identified as having cultural heritage as their primary focus (National Oceanic and Atmospheric Administration 2011h:4). Proportionally, however, this compares reasonably well with the 100 identified MPAs on the Center’s inventory that focus on cultural heritage (out of the aforementioned 1600) (National Oceanic and Atmospheric Administration 2011i). In order to address this less developed area of the national system, listed among the Center’s primary activities for FY11 was identifying strategies to meet conservation objectives for cultural heritage through coordination with a Cultural Heritage Resources Working Group of the Marine Protected Areas Federal Advisory Committee (National Oceanic and Atmospheric Administration 2011f:1). The latter was formed in September

2009 to promote guidance for advancing the cultural heritage track of National MPA system development (National Oceanic and Atmospheric Administration 2011c; National Oceanic and Atmospheric Administration 2011g). Working group membership spans federal and state agencies, tribal/indigenous members, non-governmental organizations and academic representatives. The group's primary conservation objectives are key cultural historic resources listed on NRHP, resources eligible for the NRHP or a state register, cultural sites paramount to a group's identity and/or survival, and cultural and historic sites that may be threatened, utilized for heritage tourism, or are underrepresented (National Oceanic and Atmospheric Administration 2011g). Overall, the program has developed impressively in its first decade and promises to be an important contributor to preserving maritime heritage nationwide.

***Coastal Zone Management (16 U.S.C. 33 § 1451-1466)***

The Coastal Zone Management Act (CZMA) originally became law in 1972 and has since been amended eight times (U.S. Department of the Interior 2006b). It was enacted to address what Congress declared to be a national interest in the effective management, beneficial use, protection, and development of the coastal zone. The term *coastal zone* is defined in Section 1453 of CZMA as “coastal waters ... and the adjacent shorelands... strongly influenced by each other and in proximity to the shores of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands and beaches” (16 U.S.C. 33 §1453). It also extends seaward to the outer limit of state waters, in the Great Lakes to the international boundary with Canada, and inland from the shores to the extent necessary to control shorelands.

Prior to the enactment of the CZMA, increasing and competing demands upon the nation's coastal zones were becoming more prevalent with population growth and economic development and were leading to the irretrievable damage or loss of important ecological, cultural, historic, and aesthetic values in these regions. Industry, commerce, residential development, transportation, recreation, and mineral extraction needs, together with new and expanding demands for food, energy, minerals, defense, and industrial activities in the Great Lakes, territorial sea, EEZ, and Outer Continental shelf placed stress on these areas, creating the need for conflict resolution among uses and values. It also became obvious that land uses adjacent to lands which drain into coastal zones could have a significant impact on the latter. Taking these factors into account, Congress determined that pre-existing state and local institutional arrangements for planning and regulating land and water uses in the coastal zone were inadequate.

Consequently, to preserve, protect, develop, and where possible restore the resources of the nation's coastal zones, Section 1452 declares that states should implement multi-faceted management programs to achieve wise use of land and water resources of the coastal zone. Pertinent to maritime heritage resources is that among the varied components of these plans is also the redevelopment of deteriorating urban waterfronts and ports, and preservation of historic, cultural, and esthetic coastal features. As outlined in CZMA, any state that completes the development of its management program must then submit it to the Secretary of Commerce for review and approval. Once a determination is made that the proposed management program of a coastal state

meets all requirements and is approved, the state then becomes eligible for a series of matching grants to administer the program.

Among the required elements of a management plan itemized in Section 1455(d) is a) the identification of the boundaries of a particular coastal zone, b) the definition of what land and water uses are permissible within the coastal zone and how they will be controlled, c) the designation of areas of particular concern within the coastal zone, and d) a description of the organizational structure that will oversee the proposed management program. States are also required to coordinate programs with local, area-wide and interstate plans and to establish an effective mechanism for continuing consultation and coordination with partner agencies. A single state agency is designated by the respective governor to receive and administer grants related to the implementation of the management program. Among the various categories of grants are “resource improvement grants” that in part are aimed at the redevelopment of deteriorating and underutilized urban waterfronts and ports. In fact, the rehabilitation of historic buildings and structures are specifically identified, allowing for funding to be directed towards maritime heritage resources. Grants may also be allocated to local governments and regional or inter-state agencies for the purposes of carrying out the approved management plans, though responsibility for execution remains with the states.

Section 1456-1 authorizes the Coastal and Estuarine Land Conservation Program which, under the Secretary of Commerce in coordination with all appropriate units of government, aims at protecting coastal and estuarine areas threatened by conversion from their natural, undeveloped, or recreational state. The program also takes into

account areas that could be managed or restored to effectively conserve, enhance, and reinstate their ecological functions. Among the components that are considered (conservation, recreation, ecological, etc.) as contributing to the importance of areas are historical values. The program enables the Office of Ocean and Coastal Resource Management within the NOAA's National Ocean Service to issue matching grants to approved coastal states or National Estuarine Research Reserve units, established under Section 1461. In a related Coastal Zone Enhancement grant program, Section 1456b enables funding for attaining increased opportunities for public access to coastal areas of recreational, historical, aesthetic, ecological, or cultural value. Of particular interest is that this grant program does not require states to contribute any matching funding. NOAA's National Ocean Service has recently issued guidance for fiscal years 2011 – 2015 which introduces the framework for the funding program and introduces a new competitive process of awarding Projects of Special Merit beginning in FY 2012 (National Oceanic and Atmospheric Administration 2009a; National Oceanic and Atmospheric Administration 2011j).

In order to monitor the progress of the overall program, the Secretary of Commerce is required by Section 1462 to consult with Congress on a regular basis and to prepare a biennial report for the President. Within these reports, the Secretary may make recommendations for additional legislation that may be necessary to achieve the objectives of the CZMA and enhance its effectiveness.

Overall, the National Coastal Zone Management Program has developed into a substantial partnership between the federal government and 33 states that implement

programs tackling coastal hazards, climate change, development, water quality, public access, habitat protection, energy facility siting, and ocean governance and planning. The extent of the area managed covers more than 99 percent of the nation's 95,331 miles of coastline (National Oceanic and Atmospheric Administration 2011p; 2011q). While the CZMA and ensuing programs are not specifically aimed at the preservation of maritime heritage resources, it is clear that within such an extensive network of agencies and breadth of coastal area managed, a large proportion of the nation's maritime heritage resources may directly or indirectly be affected by this legislation and activities that result from it. This extends to benefitting from applicable grant programs.

***National Maritime Heritage (16 U.S.C. 74 § 5401-5409)***

The National Maritime Heritage Act of 1994 (NMHA) was established as a result of Congress recognizing the need to foster public awareness and appreciation of the rich maritime history of the United States that should be preserved as part of community life and development. Furthermore, Congress asserted that national, state, and local groups had been working independently to preserve the nation's maritime heritage and that contemporary governmental and non-governmental historic preservation programs were inadequate, resulting in historic resources being lost or substantially altered with increasing frequency. Perhaps more importantly, Congress found that a coordinated national program was needed to immediately redress adverse consequences of "a period of indifference" and ensure future preservation of the nation's maritime heritage (16



U.S.C. 74 §5401[7]). Finally, the legislative branch also determined that a national maritime heritage policy would greatly increase public awareness of, and participation in, the preservation of maritime heritage.

Such a national maritime heritage policy is outlined in Section 5402 of NMHA where the federal government, in partnership with states, local governments, and private organizations and individuals, is called upon to provide leadership in the preservation of historic maritime resources and to assist state and local governments to expand their maritime historic preservation programs and activities. The multifaceted policy is also based on the use of measures, including financial and technical assistance, to foster conditions enabling modern society and historic maritime resources to productively co-exist. Finally, the last component of the policy is to give maximum encouragement to organizations and individuals undertaking preservation by private means.

Section 5403 establishes the National Maritime Heritage Grants Program to promote this strategy. It institutes the National Maritime Heritage Grants Program within the Department of Interior to foster a greater awareness and appreciation of the role of maritime endeavors in the nation's history and culture. The program consists of annual grants to the NTHP for subgrants administered through the NTHP to maritime heritage education projects, direct grants to SHPOs for maritime heritage preservation projects, and what are referred to as interim grants to a number of specified recipients identified in Section 5403 (j).

The NTHP subgrants are steered towards state and local governments, non-profit organizations such as maritime museums or historical societies with educational

programs, exhibits, artifact conservation, interpretation of collections, and minor facility improvements. The grants are also aimed at encouraging the preservation of traditional maritime skills such as shipbuilding and operations of vessels, wood carving, sail-making, sail training, and traditional maritime art forms. Finally, the grants may also support other educational activities such as waterborne-experience programs, maritime archaeological field schools, maritime history programs, maritime heritage trails, as well as the construction and use of reproductions of historic resources.

SHPOs are allowed to either carry activities to preserve historic maritime resources or make subgrants to local governments and private non-profit organizations to engage in such undertakings. In particular, grants may be directed towards a) the identification of historic maritime resources, including underwater archaeological sites; b) the acquisition of historic maritime resources for preservation purposes; c) the repair, restoration, stabilization, maintenance, or other capital improvements to historic maritime resources; and d) research, recording, planning, and other services carried out as part of a preservation program.

In order to qualify for either of these two main categories of grants, recipients must be a unit of state or local government or private non-profit organizations, and projects must demonstrate their ability to reach a broad audience with an effective educational program based on American maritime history, technology, or the role of maritime endeavors in American culture. Grants must also be matched on a 1:1 basis with non-federal assets which may include cash or donated services and appropriate records must be maintained and made available to the Secretary of the Interior if

requested. Grantees must assume the total cost of the continued maintenance, repair, and administration of any property in a manner satisfactory to the Secretary of the Interior. The National Maritime Heritage Grants Advisory Committee (see below) is the entity responsible for making grant determinations, while the Secretary of the Interior is responsible for ensuring that the two categories of grants receive an equal amount of funding to the extent feasible. Historic maritime resources owned or operated by the federal government may not exceed 40 percent of the total amount distributed any given fiscal year for grants. No more than 15 percent or \$500,000, whichever is less, of the annual funding is authorized for administrative expenses, shared equally between the NTHP on one hand, and the NPS with its partner SHPOs on the other (16 U.S.C. 74 § 5405 [a]3).

The process for both direct grants and subgrants involves the Secretary of the Interior soliciting applications via a publication in the Federal Register, listing priorities for the making of those grants, and establishing a deadline for submissions, along with any other relevant information. The NTHP and SHPOs, together with the Secretary are responsible for publicizing the program in cooperation with NPS, the Maritime Administration, and other appropriate government agencies and private institutions. They are also responsible for answering inquiries from the public, distributing direct grant and subgrant applications, receiving applications and ensuring their completeness, and forwarding applications to the Committee for review and recommendation. The Committee then recommends the selected grant proposals to the Secretary who within 60 days either approves or disapproves each recommended project and provides the

Committee and applicant with the reasons for that approval or disapproval. Monitoring the progress of successful projects is a shared responsibility, as is providing the Secretary with progress reports when required. Notably, the Secretary, the NTHP, and SHPOs may, individually or jointly, enter into cooperative agreements with any single or group of qualified maritime heritage organizations to assist with the administration of the program. The Secretary, NTHP, NCSHPO, and partners are also called upon in Section 5407 to issue regulations and guidelines promulgating the NMHA.

The third category of grants the NMHA supports is “interim projects” and such grants are made directly by the Secretary of the Interior. Specific recipients are named (i.e. National Museum Association, Virginia V Foundation, Mariner’s Museum, and the Center for Maritime and Underwater Resource Management), and in certain cases specific activities and deadlines are outlined. The sole “open” example of this third category of grants pertains to any non-profit organization which operates and maintains a former hospital ship to be converted to engage in public health activities.

Details regarding the National Maritime Heritage Grants Advisory Committee are provided in Section 5404. The Committee is to consist of 13 members from among the public within sectors of the maritime community who are knowledgeable in matters pertaining to maritime heritage and ideally represents a variety of fields and a balanced geographical distribution. The President of NTHP and the President of NCSHPO are ex-officio voting members, while the ACHP and a number of other federal agencies are represented ex officio as well. The primary duties of the Committee include but are not limited to reviewing grant and subgrant proposals and making funding recommendations

to the Secretary of the Interior, identifying and advising the Secretary regarding priorities for achieving NMHA policy, and reviewing the Secretary's annual report to Congress. The latter must include a description of each project funded under the program for the period covered by the report, the results, or accomplishments of each such project, and recommended priorities for achieving NMHA policy. Section 5404 also outlines procedural matters regarding the activities of the Committee including what a quorum consists of, selection of officers, compensation and travel expenses, along with staff support provided by the Department of the Interior and NTHP.

According to the current legislation, the Committee was ordered to terminate on September 30, 2000. Funding for the NMHA grant program is also in question. Originally, as per Section 5405, funds were allocated through an intricate mechanism that involved the sale and scrapping of obsolete vessels in the National Defense Reserve Fleet (see also Section 3502 of Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. Law 106-398). Section 5405 describes the allocation of these funds. Half were to be made available to the Administrator of the Maritime Administration for the acquisition, maintenance, repair, reconditioning, and improvement of vessels in the aforementioned Reserve Fleet. A quarter of the funds were to be made available to the Administrator for expenses associated with state maritime academies or the US Merchant Marine Academy for facility and training ship maintenance, repair, modernization, and other purposes. The remainder was originally the source of funding for NMHA grants; however, the proposed Maritime Administration Authorization Act of 2010 included a provision that amended the clause

pertaining to this third category (Govtrack.us 2009). Eventually passing as Section 3509 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. Law 111-84) and with a subsequent technical correction through the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Pub. Law 111-383), the provision was amended to read that the “remainder, ... shall be made available to the Secretary to carry out the Program, as provided... or, if otherwise determined by the Maritime Administrator, for use in the preservation and presentation to the public of maritime heritage property of the Maritime Administration” (16 U.S.C. 74 § 5405 [a]1[C]). Therefore, the Maritime Administrator is presently granted the authority to support internal agency maritime heritage preservation priorities with funds that previously served as the source of financial support for the NMHA Grants Program. Furthermore, funds for interim projects were to originate from the first eight obsolete vessels sold or scrapped after July 1, 1994, which places a restriction on the possibility of issuing interim project grants beyond a certain point. With the Committee disbanded and funding availability uncertain, the impact of this potentially significant piece of legislation is unfortunately minimized.

The final section (Section 5409) was not originally part of the NMHA but was enacted as Section 1068 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. It pertains to the designation of America’s National Maritime Museum. Perhaps paradoxically, the title is not bestowed only to one particular museum, but rather assigned to museums on the basis that a) they house a collection of maritime artifacts that clearly represents the nation’s maritime heritage, and b) they provide

outreach programs to educate the public about the nation's maritime heritage. Initially, the Mariners' Museum in Virginia and the South Street Seaport Museum obtained this designation, but according to subpart (c) future designations are not precluded, assuming they meet the aforementioned criteria. While future designation is therefore not precluded, the NMHA makes no mention as to how museums would gain such recognition in the future.

***Native American Graves Protection and Repatriation (25 U.S.C. 32 § 3001-3013)***

The Native American Graves Protection and Repatriation Act, which has been amended twice, establishes ownership or control of Native American cultural items which are excavated or discovered on federal lands following enactment of NAGPRA, provides for an inventory of human remains and associated objects curated by certain museums and state and federal agencies, and stipulates provisions for their repatriation.

In particular, Section 3002 addresses ownership or control of newly discovered or excavated items and states they are to be handled according to a predetermined prioritized categories. First among which are lineal descendants of a Native American's human remains and associated funerary objects, if an association can be determined. If lineal descendants cannot be ascertained, and in the case of unassociated funerary objects, sacred objects, or objects of cultural patrimony, then precedence is given to the Indian tribe or Hawaiian organization on whose tribal land such objects or remains were discovered. Next in order is an Indian tribe or Native Hawaiian organization which has the closest cultural affiliation with such remains or objects and stakes a claim for them.

In the case where cultural affiliation cannot be reasonably determined and the remains or objects were discovered on federal land recognized as the aboriginal land of some Indian tribe, then that tribe may claim them. However, if a preponderance of evidence suggests a different tribe has a stronger cultural relationship with the remains or objects, then the latter may state a claim. Unclaimed cultural items are to be disposed of as stipulated in promulgating regulations of the NAGPRA.

Section 3002 also forbids the intentional removal from or excavation of Native American cultural items from federal or tribal lands. Removal or excavation are only permitted pursuant to a permit issued under ARPA, the items are removed or excavated after demonstrable consultation with or consent of the appropriate Indian tribe or Native Hawaiian organization, and the rights to ownership follow the aforementioned order of priority. In the case of inadvertent discoveries, activities that led to the discovery are to cease, a reasonable effort must be made to protect the discovered items, and authorities must be contacted in writing.

Section 3003 requires each museum which has possession or control over holdings or collections of Native American human remains and associated funerary objects to compile an inventory of such items within five years of November 1990. The inventory is to be created in consultation with tribal government or Native Hawaiian organization officials, and to the extent possible also identify the geographical and cultural affiliation of items. Indian tribes or Hawaiian groups may request additional documentation prior to making a judgment. If the cultural affiliation of items is determined, within six months of completing the inventory, the federal agency or



museum concerned must notify the affected Indian tribe or Native Hawaiian organization and provide a prescribed series of information. Section 3004 deals with the cases of unassociated funerary objects, sacred objects, and objects of cultural patrimony and places a requirement on federal agencies and museums to provide a summary of their collections within three years of November 1990.

Repatriation of Native American human remains and objects possessed or controlled by federal agencies and museums is addressed in Section 3005, following an order of priority similar to that described in Section 3002. Lineal descendants take precedence, followed by cultural affiliation and demonstration of ownership, although several categories are discussed. A provision allows for a delay in returning Native American cultural items if they are “indispensable for completion of a specific scientific study, the outcome of which would be of major benefit to the United States” (25 U.S.C. 32 S 3005[b]). If there are multiple claims and a clear determination of ownership cannot be made, the federal agency or museum may retain the cultural items until the requesting parties agree upon appropriate disposition or the dispute is otherwise resolved by provisions within the NAGPRA or a court of competent jurisdiction.

The remaining sections of the Act address the establishment of a committee to review and monitor the implementation of the aforementioned activities, penalties and enforcement, overall appropriations, as well as the authorization of a grant program to assist both Indian tribes and Hawaiian organizations and museums to bring the mandated tasks to completion. In Section 3011, the Secretary of the Interior is tasked with promulgating regulations for the NAGPRA within a year of November 1990. These

regulations, 43 C.F.R. 10 (Native American Graves Protection and Repatriation Regulations), were published in 1995 demonstrating the multitude of voices and the challenges involved with complying with the NAGPRA. Efforts ongoing to this day under the assistance and guidance of the NPS which has awarded more than 512 grants and overseen the publication of 1263 Federal Register notices involving more than 31,000 individuals and 760,000 associated and unassociated funerary objects (U.S. Department of the Interior 2006a; U.S. Department of the Interior 2012). In terms of maritime cultural heritage, this statute may not appear to directly apply in a large proportion of archaeological research investigations. However, maritime archaeologists studying prehistoric collections and the emerging stream of research focused on prehistoric submerged settlements may directly involve the application of the NAGPRA when artifacts are to be recovered.

***National Environmental Policy (42 U.S.C. 55 § 4321-4370h)***

Though the United States Code Chapter dedicated to National Environmental Policy is varied and composed of multiple authorities, its basis is the National Environmental Policy Act of 1969. NEPA itself has only been amended once since it was first enacted in 1970 and serves to establish a national strategy encouraging “productive and enjoyable harmony between man and the environment” (U.S. Department of the Interior 2006c). In Section 4321, Congress observes that this national policy should also promote efforts to prevent or eliminate damage to the environment, stimulate the welfare of man,

direct efforts towards enriching the understanding of ecological systems and natural resources, and establish a Council on Environmental Quality.

Recognizing the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and technological development on the natural environment and human health, Congress elaborated on the nation's environmental policy in Section 4331. At its heart is a commitment by the federal government to attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable or unintended consequences. However, the policy also calls for safe, healthful, productive and esthetically and culturally pleasing surroundings. This interest in cultural resources is furthered by a policy commitment to preserve important historic, cultural, and natural aspects of our national heritage.

To execute this mandate, Congress authorizes and directs all agencies of the federal government to undertake a number of actions in Section 4332. First and foremost is to take into account the environment in planning and decision-making pertaining. In order to do this, Congress requires agencies to coordinate with the Council on Environmental Quality to identify previously unquantified environmental parameters and to develop methods and procedures whereby these parameters are taken into consideration alongside economic and technical concerns. Furthermore, every major federal action that could significantly affect the human environment, along with legislative proposals, requires a detailed statement on the environmental impact of the proposed action. The same statement must include adverse environmental effects which

cannot be avoided should the proposal be implemented, alternatives to the proposed action, the balance between short-term benefits and long-term effects, and any irreversible and irretrievable commitments of resources involved in the proposed action. Any federal agency that has legal jurisdiction or special expertise with respect to an environmental impact under consideration must be consulted and offered the opportunity to comment. Copies of the statement, along with comments and views of appropriate federal, state, and local agencies authorized to develop and enforce environmental standards, are to be made available to the President, the Council on Environmental Quality, and the general public. Congress directs federal agencies to study, develop, and describe appropriate alternatives to recommended courses of action if proposals involve unresolved conflicts concerning alternative uses of available resources. Additional requirements are placed on agencies, charged with initiating and utilizing ecological information in the planning and development of resource-oriented projects. International collaboration is encouraged, as is providing assistance to the Council on Environmental Quality. Finally, agencies are instructed to advise states, counties, municipalities, institutions, and individuals on restoring, maintaining, and enhancing the quality of the environment.

The establishment, membership, and scope of Council on Environmental Quality are described in detail in Section 4342. Section 4344 identifies its duties and functions which concentrate on collecting, reviewing, and appraising environmental data and advising and developing recommendations for the President. Cultural heritage is only tangentially included implicated as the Council's focus is concentrated on ecological

systems and environmental quality. There are, however, a number of executive orders and other provisions within the National Environmental Policy title of the U.S. Code that do address cultural heritage and are worth mentioning.

*Environmental Research, Development, and Demonstration Act of 1979 (§ 4368)*. A research grant program established under the Environmental Research, Development, and Demonstration Act of 1979, specifically identifies significant natural and cultural resources in its provisions. Classified in Section 4368, the grant program aims at supporting non-profit organizations in determining how scientific, technological, and social trends and changes affect the future environment, and assessing measures for improvement. These non-profit organizations must have a prior record of research concerned with “improving the quality of life, including plans to identify, protect and enhance significant natural and cultural resources and the environment” (42 U.S.C. 55 § 4368[3]). The governor of a state, in consultation with the State legislature, certifies non-profits as bona fide organizations entitled to participate in the program. While the Environmental Research, Development, and Demonstration Act was re-authorized for a number of years, its authorization expired in September 30, 1981, and it appears this particular statute was combined with others prompting the Environmental Protection Agency to promote Research and Development grants (Lee N.d.). Current EPA research grant and fellowship programs do not specifically identify cultural heritage among their topics, although the overall legal mandate does appear to provide for some overlap

between natural and cultural resources (U.S. Environmental Protection Agency 2011b; 2011c).

*Federal Support of Community Efforts along American Heritage Rivers (Executive Order 13061)*. Based in part on the authority provided by NEPA, President William Clinton established the American Heritage Rivers initiative through Executive Order 13061 issued in September 1997 (Executive Order 13061: Federal Support of Community Efforts Along American Heritage Rivers). Subsequently amended by Executive Order 13093, it sets three objectives for the program, outlined as natural resources and environmental protection, economic revitalization, and historic and cultural preservation (Executive Order 13093: American Heritage Rivers). Federal agencies are directed to coordinate functions and resources in order to preserve, protect, and restore rivers and their associated resources important to the nation's history, culture, and natural heritage. Communities are charged with nominating rivers, and, upon review, those approved by the President are designated American Heritage Rivers. Federal agencies are instructed to support community-based efforts and help identify resources in the private and non-profit sectors. They are also encouraged to partner with other levels of government in order to strategically direct resources in such a way as to complement those expended by state, local, or tribal governments. Among other things, local federal facilities, to the extent permitted by law and agencies' missions and resources, may be made available to American Heritage River communities. Federal agencies are also tasked with refocusing programs, grants, and technical assistance to

provide support for communities adjacent to American Heritage Rivers. A “River Navigator,” selected among all agencies involved in a particular project, is required to serve as the point of contact with the community involved.

Rivers, river stretches, or river confluences can be nominated by communities, in coordination with state, local, or tribal governments. Several communities may nominate the same river, though the role each will play needs to be coordinated and declared. Nominations are evaluated based on a) the characteristics of the natural, economic, agricultural, scenic, historic, cultural, or recreational resources of a river that render it distinctive or unique; b) the effectiveness of the proposed plan in the nomination; c) the strength and diversity of community support; and d) the willingness and capability to form partnerships to materialize the proposed plan. The Chair of the Council on Environmental Quality is charged with developing the procedure for nominations and recommendations, and for ensuring that proposals represent a wide range of stream sizes, geographic locations, as well as a balance between urban and rural settings. Both relatively pristine and successful revitalization efforts may be considered, along with degraded rivers in need of restoration. The Executive Order also establishes the American Heritage Rivers Interagency Committee to issue formal guidelines for designation, periodically review actions of agencies in support of the initiative, and report to the President on progress, accomplishments, and the effectiveness of the program.

Within a year, Presidential Proclamation 7112 recognized the hundreds of communities that presented nominations and proceeded to designate the first 14

American Heritage Rivers (Presidential Proclamation 7112: Designation of American Heritage Rivers), only days after Executive Order 13093 increased the potential number of designees from ten to “up to 20” (Executive Order 13093: American Heritage Rivers). While this was a very encouraging start to the program, it appears that subsequent designations have not taken place and no new communities have been included in the initiative (U.S. Environmental Protection Agency 2011a). The original 14 designees, however, have banded into the American Heritage Rivers Alliance to promote their mission and fund-raise for their communities (American Heritage Rivers Alliance 2011). A recently announced program, America’s Great Outdoors Initiative, appears to be the current priority for the Council on Environmental Quality and carries the mantle of environmental stewardship and connecting together the nation’s historic, cultural, and natural heritage (Council on Environmental Quality 2011a; 2011b).

*Use of Off-Road Vehicles on Public Lands (Executive Order 11644).* An executive Order 11644 issued by President Nixon, as amended, provides offers some additional protection to cultural heritage resources located on public lands that may be under threat from off-road vehicle use. It states that whenever the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetable, wildlife, wildlife habitat, or cultural or historic resources of particular areas or trails within public lands, the head of the respective federal agency may immediately close such areas or trails to the type of off-road vehicle causing the adverse effects until measures have been implemented to prevent future recurrence (Executive Order 11644:



Use of Off-Road Vehicles on Public Lands ; Executive Order 11989: Off-road Vehicles on Public Lands ; Executive Order 12608: Elimination of Unnecessary Executive Orders and Technical Amendments to Others). While not directly pertinent to many types of maritime heritage, this provision does allow for federal agencies to restrict off-road vehicle access to coastal public lands which could contain heritage resources that reflect the nation's maritime past. Albeit limited in its extent, it is one more tool that may be used in pursuit of certain preservation efforts.

***Submerged Lands (43 U.S.C. 29 § 1301-1356a)***

Title 43 of the U.S. Code is dedicated to public lands, and it is here that Chapter 29, devoted to Submerged Lands, is situated. The Chapter is composed primarily of the Submerged Lands Act (SLA) and the OCSLA, both enacted in 1953 only a few months apart. In 1945 President Truman asserted United States control over natural resources of the subsoil and seabed of the continental shelf through Presidential Proclamation 2667 and Executive Order 9633. The SLA resulted from litigation a few years later (*United States v. California*, 332 U.S. 19 [1947]) that effectively transferred ownership of a state's coastal submerged lands three miles seaward from the coast to the federal government for the purposes of defense and execution of foreign relations (Bureau of Ocean Energy Management 2010). As a result, Congress adopted the SLA shortly thereafter, granting title to the natural resources (oil, gas, and other minerals) contained within this area back to the states. At the same time, with the OCSLA the federal government preserved control of the seabed and resources beyond state boundaries and is authorized to engage in leases. The SLA was tested soon after it was enacted and in

1954 the U.S. Supreme Court (*Alabama v. Texas*, 347 U.S. 272 [1954]) deemed that Congress was indeed in a position to relinquish to the states the federal government's property rights over submerged lands without interfering with U.S. national sovereign interests (Bureau of Ocean Energy Management 2010).

The SLA (43 U.S.C. § 1301-1315) begins by defining certain terms critical to the application of the statute. Among them, "lands beneath navigable waters," is defined in Section 1301 as all lands within the boundaries of each state covered by non-tidal waters navigable at the time the state joined the United States or since that time, up to the high water mark. The term also includes lands permanently or periodically covered by tidal waters up to the mean high tide line and extending seaward three miles to the state boundary, unless the latter has been otherwise extended by Congress. The third and final component of "lands beneath navigable waters" includes lands that were formerly beneath navigable waters but have since been filled in, made, or reclaimed. "Coast line," on the other hand, is defined as the line of ordinary low water along the coast directly in contact with open sea.

Section 1311 declares that title to and ownership of lands beneath navigable waters within state boundaries, along with natural resources within such lands and waters, are vested in the respective states or persons who were entitled to them by state law on June 5, 1950. The section also recognizes the rights of the owners to manage, administer, lease, develop, and use such lands and natural resources. The seaward boundary of states is marked as a line three nautical miles out in the case of the Atlantic and Pacific Oceans, three marine leagues in the case of Texas and the Gulf coast of

Florida, and to the international boundary in the case of the Great Lakes (Bureau of Ocean Energy Management 2010). Louisiana's jurisdiction, the sole other exception, is extended to three imperial nautical miles (Bureau of Ocean Energy Management 2011d). The United States, however, maintains the rights to use, develop, improve, or control these lands and waters for the purposes of navigation, flood control, and the production of power. It also maintains title to any lands lawfully acquired or ceded to the United States, lands held by the United States for the benefit of Indian tribes, along with all structures and improvements constructed in the exercise of its navigational servitude for the purposes of commerce, navigation, national defense, and international affairs.

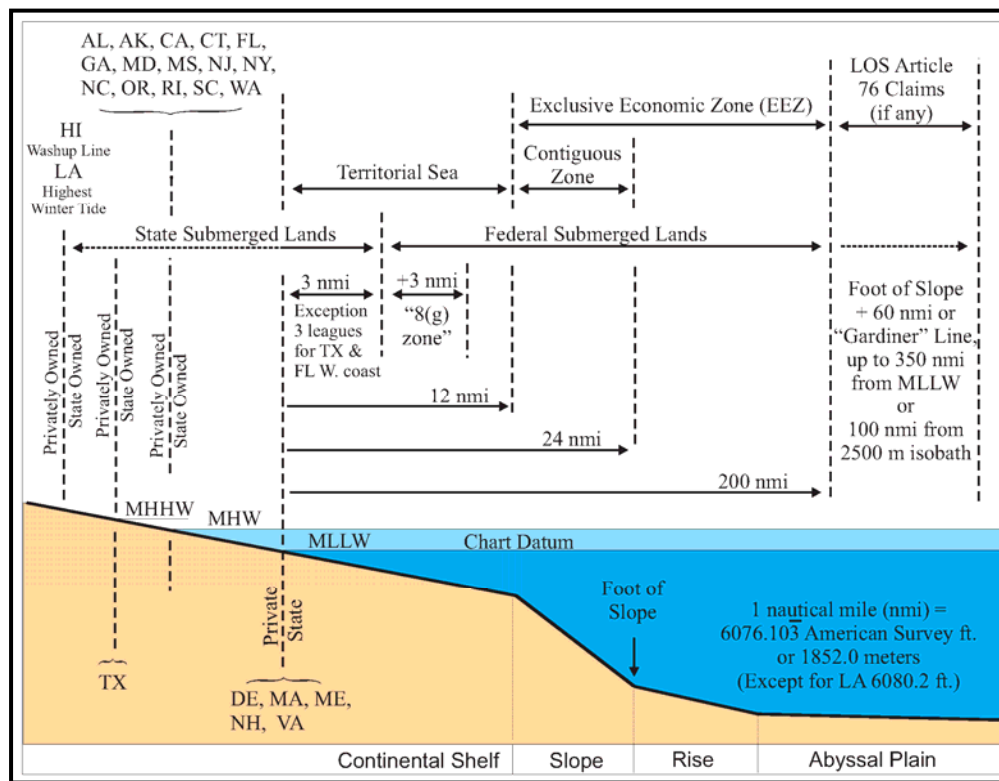
The nation's territorial sea, contiguous zone, and EEZ were set out in three Presidential Proclamations issued during the 1980s and 1990s. In 1983, in accordance with international law and through Presidential Proclamation 5030, President Reagan declared certain sovereign rights over natural resources and related jurisdiction within its EEZ. The EEZ extends 200 nautical miles from the baseline from which the breadth of the territorial sea is measured, except in those cases that a maritime boundary with a neighboring state is affected. It extends seaward of the Contiguous Zone and carries with it fewer, but still significant rights. Through the aforementioned Proclamation, President Reagan asserted United States' sovereign rights for the purpose of exploring, exploiting, conserving, and managing natural resources of the water-column, seabed and subsoil, jurisdiction over installations having economic purposes, and the protection and preservation of the marine environment. According to international law, all states retain rights such as freedoms of navigation, overflight, as well as the laying of submarine

cables and pipelines in this area. In 1988, President Reagan also extended the Territorial Sea of the United States to 12 nautical miles to advance national security and other interests through Presidential Proclamation 5928. Within this area, the United States exercises full sovereignty and jurisdiction that extends to the airspace over the territorial sea, its bed and the subsoil. Notably, however, this proclamation specified that no existing federal or state laws, jurisdictions, or rights would be altered or extended through that action. Thus, as Elia (2000:45-46) notes, the United States has a 12-mile territorial sea for the purposes of national security, but retains a 3-mile territorial sea for most other laws, including the ASA. Just over a decade later, President Clinton issued Presidential Proclamation 7219 extending the contiguous zone of the United States to 24 nautical miles from the coastal baseline, seaward of the territorial sea. In addition to advancing law enforcement and public health interests, the Proclamation specifically states that the extension is an important step in preventing the removal of cultural heritage. Within the contiguous zone, the United States may exercise the control necessary to prevent the infringement of its customs, fiscal, immigration, or sanitary laws and regulations within its territory and territorial sea. Here, too, ships and aircraft of other countries are entitled to the high seas freedom of navigation and overflight, along with other uses such as the laying of submarine cables and pipelines.

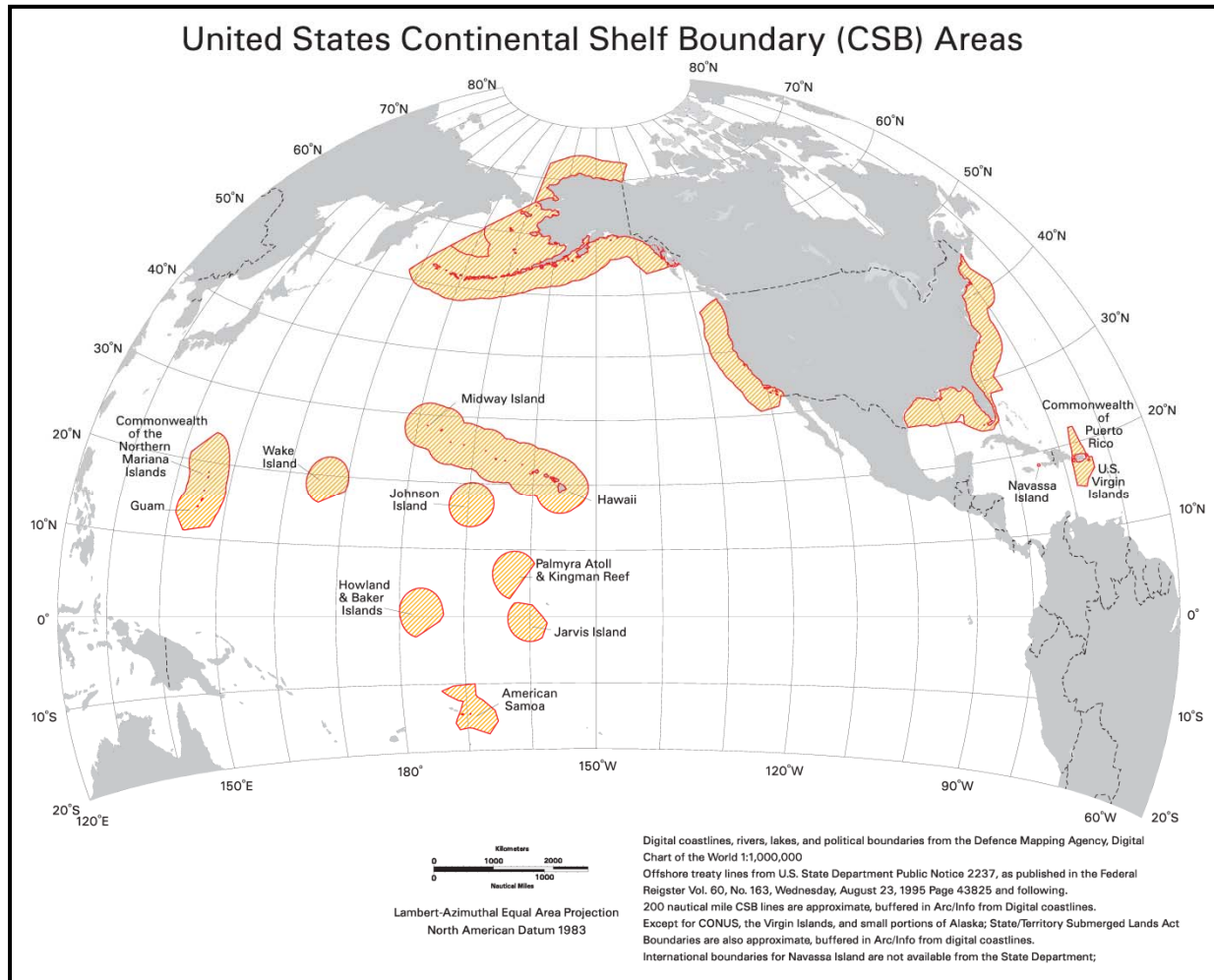
The OCSLA, as amended (43 U.S.C. § 1331 et seq.), established federal jurisdiction over submerged lands on the OCS (Bureau of Ocean Energy Management 2011c). The latter is defined as all submerged lands lying seaward and outside the area of lands beneath navigable waters addressed in Section 1301, of which the subsoil and

seabed appertain to the United States and are subject to its jurisdiction and control (43 U.S.C. § 1331). Federal jurisdiction is defined under accepted principles of international law and its limit is set as 200 nautical miles seaward of the baseline from which the breadth of the territorial sea is measured. However, it extends further if the continental shelf can be shown to exceed 200 nautical miles, in which case the limit is a distance not greater than a line 100 nautical miles from the 2,500-meter isobaths or a line 350 nautical miles from the baseline, whichever is farthest (Bureau of Ocean Energy Management 2011d). Figure 4 presents a combination of state and federal boundaries and zones described above, including the OCS. Figure 5, on the other hand demonstrates the full extent of the United States Continental Shelf boundaries.

Section 1301 defines three related terms, “marine environment,” “coastal environment,” and “human environment” which are considered elsewhere. The first means the “physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem” from the coast to the OCS. “Coastal environment” refers to the same characteristics and factors as applied to the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone, as defined in the CZMA (16 U.S.C. 33 § 1453). “Human environment” is defined as “the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf” (43 U.S.C. § 1331). One could argue that maritime heritage resources located along the coast are indirectly



**FIGURE 4.** Boundaries of United States submerged lands (Bureau of Ocean Energy Management 2011b).



**FIGURE 5.** *United States Continental Shelf boundaries (Bureau of Ocean Energy Management 2011b).*

reflected in the definitions of at least the human environment and coastal environment. This becomes important as all three environments are specifically addressed in Section 1332, where Congress declares the national policy on the OCS.

In accordance with this policy, the subsoil and seabed of the OCS appertain to the United States and are subject to its jurisdiction, control, and part of disposition. Since exploration, development, and the production of minerals in this region is recognized as having significant impacts on the coastal states, and in recognition of the national interest in the effective management of the marine coastal and human environments, certain measures have been implemented. The distribution of a portion of the receipts for the leasing of mineral resources of the OCS adjacent to state lands is set aside to provide affected coastal states and localities with mitigation funds to address adverse economic and environmental effects related to the development of such resources. Affected states and local governments are also entitled to an opportunity to participate in policy and planning decisions made by the federal government relating to exploration for, and development and production of, minerals of the OCS, to the extent consistent with the national interest.

Section 1333 establishes that the Constitution, laws, and civil and political jurisdiction of the United States are extended to the subsoil and seabed of the OCS and to all artificial islands and installations erected for the purpose of mineral exploration and exploitation. The Section goes further, declaring that to the extent they are applicable and consistent with federal laws and regulations, the civil and criminal laws of each adjacent state are also declared to be law of the United States for that portion



of the subsoil and seabed of the OCS that would be within the area of the state if its boundaries were extended seaward to the outer margins of federal jurisdiction. The latter provision is qualified by stating that it may not be interpreted as a basis for claiming any interest or jurisdiction on behalf of any state over the seabed and subsoil of the OCS, or the property and natural resources thereof, including associated revenues. This section is of critical importance in extending the provisions of NHPA to the OCS, thereby affording some consideration to maritime heritage resources affected by activities related (but not limited) to mineral exploration and exploitation. The Bureau of Ocean Energy Management has both adopted regulations (30 C.F.R. 250.194 and 30 C.F.R. 250.1010[c]) and issued Notices to Lessees that implement guidelines and set requirements for oil and gas companies to follow pertaining to archaeological resource surveys and reports (Bureau of Ocean Energy Management N.d.-a; Bureau of Ocean Energy Management N.d.-b; Bureau of Ocean Energy Management 2011g; U.S. Department of the Interior 2011d; U.S. Department of the Interior 2005; U.S. Department of the Interior 2006h; U.S. Department of the Interior 2008a).

Having established ownership and the legal provisions that apply to the OCS, Section 1334 addresses the administration of leases and pipeline operations, a responsibility placed on the Secretary of the Interior. The subsequent sections expand on pertinent policies and procedures such as oil and gas leases, the bidding process, and royalties. In particular, oil and gas leases cannot exceed individual tracts larger than 5,760 acres, unless otherwise determined by the Secretary and are initially leased for a period of either 5 or up to 10 years. With the appropriate payment as determined by the

applied bidding system, lessees are entitled to explore, develop, and produce oil and gas in the leased area, assuming their required development and production plan is approved. In the case where leased lands are located partly or wholly within the waters of a coastal state, the governor of the affected state is to be informed of the identification and schedule of areas proposed for leasing, given an estimate of the oil and gas reserves in the proposed areas, and is authorized to request all pertinent information regarding the tracts. The coastal state is entitled to 27 percent of all bonuses, rents, royalties, and other revenues derived from any leased tract located wholly within state waters, or a percentage thereof for tracts lying partially within state waters. The same section also addresses other mineral leases, beyond oil and gas, with a separate series of stipulations.

A set of requirements is imposed upon the Secretary of the Interior in attempting to execute the provisions of this Act. Among them is the need to ensure that activities are undertaken in a manner that provides for safety, environmental protection, prevention of waste, conservation of natural resources, coordination among relevant federal agencies, protection of national security interests and correlative rights, a fair return to the United States, and consideration for other uses of the sea or seabed. Public input and the need for oversight are also specifically addressed. Though a thorough list, the preservation of maritime heritage resources is not specifically identified among the Secretary's considerations. Given that NHPA applies to the OCS, however, this omission may not be a marked concern for heritage preservation purposes.

Of note is the authority reserved in Section 1341 for the President of the United States who may withdraw from disposition any of the unleased lands of the OCS. At this

point in time, for example, the President has withdrawn Bristol Bay, offshore Alaska from leasing consideration through June 2017. The President has also withdrawn all marine sanctuaries from future oil and gas leasing activities (Bureau of Ocean Energy Management 2011a). An additional restriction is in place until 2022 in the Central Gulf of Mexico and most of the Eastern Gulf of Mexico as part of the Gulf of Mexico Energy Security Act of 2006 (Pub. Law 109-432) (Bureau of Ocean Energy Management 2011a).

Guiding the leasing program itself is Section 1344 which establishes that management of the OCS shall be conducted in a manner which considers the economic, social, and environmental values of the renewable and nonrenewable resources contained therein. It also stresses consideration for the potential impact oil and gas exploration may have on other resource values and the marine, coastal, and human environments. The subsequent Section, 1345, addresses consultation with affected State and local governments. To establish baseline data, the Secretary of the Interior is required to conduct a study of any area or region included in any lease in order to determine information needed for assessment and management of environmental impacts on the human, marine, and coastal environments, along with the coastal areas that may be affected by regional mineral development (43 U.S.C. 29 §1346). In order to monitor environmental impacts, every three years the Secretary of the Interior is charged with compiling an assessment of the cumulative effects of activities authorized under the particular subchapter on the human, marine and coastal environments (43 U.S.C. 29 §1348). The Secretary is in fact charged with declaring, at least once, the approval of a

development and production plan in any area of the OCS other than the Gulf of Mexico to be a major federal action. If approval of any development and production plan is found to be a major federal action, the Secretary is tasked with transmitting the draft environmental impact statement to the governor of any affected state, upon request to the executive of any local government, and must also make the draft available to any appropriate interstate regional entity and the public subchapter (43 U.S.C. 29 §1351[e-f]). Together with the Coast Guard and the Army, the Department of the Interior is called to enforce any violations of safety and environmental regulations promulgated pursuant to the particular subchapter (43 U.S.C. 29 §1348).

Procedures for the administration of the leasing program, standards of operations, and data management are followed by the concluding and more recent Section 1356a, dedicated to the Coastal Impact Assistance Program. The program aims at providing aid to coastal states located not more than 200 nautical miles from the geographic center of any leased tract in support their coastal zones (as defined in the CZMA). In particular, the annual fiscal allocation may only be directed towards one or more specified purposes. Authorized projects include a) those aimed at conserving, protecting, or restoring coastal areas, including wetlands; b) mitigation of damage to fish, wildlife, or natural resources; c) planning assistance and administrative costs to manage the program; d) implementation of a federally approved marine, coastal, or comprehensive conservation management plan; and e) mitigation of the impact of OCS activities through onshore infrastructure projects and public service needs. While projects

pertaining to cultural resources are not identified directly in this program, they may very well be part of marine, coastal, or comprehensive regional management plans.

In order to qualify for this funding, producing states (those within 200 miles of the center of leased tracts) must present the Secretary of the Interior with a plan that identifies the state agency acting as the state's representative, a program for implementing the plan that describes how the amounts provided will be utilized, certification by the governor of ample opportunity for public participation in the development of the aforementioned plan, additional information on coastal political subdivisions, and a description of measures taken to determine availability of other federal sources of funding. Upon approval, the state qualifies for an amount of funding that depends on its allocation and revenues, while the coastal political subdivisions are entitled to 35 percent of the allocable share of each producing state.

*Energy Policy Act of 2005 (Pub. Law 109-58).* The related Energy Policy Act of 2005 specifically addresses submerged cultural resources. It requires the Secretary of the Interior, in cooperation with the Secretary of Commerce, the Commandant of the Coast Guard, and the Secretary of Defense, to establish an interagency comprehensive digital mapping initiative for the OCS to assist in decision making. The initiative is tasked with using data already collected to the maximum extent practicable and developing procedures for accessing it. Any mapping carried out under the initiative is required to indicate the locations of federally permitted activities, obstructions to navigation, submerged cultural resources, undersea cables, offshore aquaculture projects, and any

area designated for the purpose of safety, national security, environmental protection, or consideration and management of living marine resources. The result of this legislation was the development of the Multipurpose Marine Cadastre (MMC), which allows federal agencies, coastal states, local, territorial, and tribal governments, as well as private industry and the academic community to directly access geospatial information (Minerals Management Service N.d.). An implementation plan for the MMC was prepared by the Minerals Management Service (now the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement) in 2006 and included archeological sites as one of its supporting data themes (U.S. Department of the Interior 2006f:8). The 2006 plan also noted several challenges posed by overlapping responsibilities and even conflicting agency mandates, particularly when it comes to the protection as opposed to the development of natural resources and to boundary issues. The extensive history of sanctioned marine activities and the varying data formats, along with mapping systems further complicates the task. Finally, while originally addressing only federal submerged lands, the MMC is expanding into state submerged lands, which in itself presents challenges to developing a uniform approach (U.S. Department of the Interior 2006f:6,10-11). What is encouraging about the initiative is the broad nature of the collaboration that includes a host of federal agencies such as the Department of the Interior (Bureau of Ocean Energy Management, Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Geological Survey, NPS), the Department of Commerce (National Ocean Service, Coastal Service Center, National Marine Fisheries Service, National Marine Sanctuaries, Marine Protected Areas Center), the Department of

Defense (Navy, Air Force, Army Corps of Engineers, National Geospatial Intelligence Agency), the Federal Communications Commission, the Environmental Protection Agency, the Department of State, the Department of Homeland Security, the U.S. Census Bureau, and the Department of Energy (U.S. Department of the Interior 2006f:16-17).

Currently in its third year of development, the project is led by the Bureau of Ocean Energy Management (BOEM) and the NOAA, and the two agencies have a signed Memorandum of Agreement extending their partnership through 2014 (Bureau of Ocean Energy Management and National Oceanic and Atmospheric Administration 2011b). The impressive list of current MMC themes includes a data theme entitled the Abandoned Shipwreck Act (ASA) (within Georegulations), as well as the NOAA Office of Coastal Survey's Wrecks and Obstructions data set originating from the Automated Wreck and Obstruction Information System; it does not, however, include a separate archaeological site theme (Bureau of Ocean Energy Management and National Oceanic and Atmospheric Administration 2011a; Marine Cadastre.Gov 2011b; 2011c; National Oceanic and Atmospheric Administration 2011a; 2011). Both case studies and individual data sets are available on the MMC website for download and are compatible with ArcMap, ArcGIS Explorer and Google Earth, while several data sets are viewable online through a tool titled "national viewer" (Marine Cadastre.Gov 2011a; National Oceanic and Atmospheric Administration 2011b).

*Stewardship of the Ocean, our Coasts, and the Great Lakes (Executive Order 13547)*. In a June 2009 memorandum to the heads of executive departments and agencies, President Obama outlined national policy for the oceans, our coasts, and the Great Lakes. The memorandum advocated the development of a comprehensive ecosystem-based framework to balance long-term conservation and use of associated resources. It established an Interagency Ocean Policy Task Force led by the Chair of the Council on Environmental Quality and composed of senior policy-level officials from the departments, agencies and bodies represented on the Committee of Ocean Policy. The latter was established by President Bush in 2004 under Executive Order 13366 in an effort to coordinate ocean-related matters between executive agencies to advance environmental, economic, and security interests and to facilitate inter-governmental collaboration at all levels. President Bush was responding to recommendations made by the U.S. Commission on Ocean Policy and the Pew Oceans Commission which each published extensive final reports on the subject in the 2003-2004 timeframe (Pew Oceans Commission 2003; U.S. Commission on Ocean Policy 2004; Upton and Buck 2010).

The Interagency Ocean Policy Task Force established under the most recent Executive Order was instructed to develop recommendations to ensure the protection, maintenance, and restoration of the health of ocean, coastal, and Great Lakes ecosystems and resources. It also makes specific reference not only to enhancing the sustainability of ocean and coastal economies, but also to preserving maritime heritage, and building the capacity to respond to climate change. Importantly, the task force was charged with



reviewing and revising the existing federal government policy coordination framework (The White House Council on Environmental Quality 2010a:AI-AIII).

Within a year, President Obama issued Executive Order 13547 which by and large adopted the final recommendations of the Interagency Ocean Policy Task Force and directed executive agencies to implement the recommendations under the guidance of a National Ocean Council (The White House Council on Environmental Quality 2010a). These final recommendations followed two interim reports submitted by the Task Force in 2009 that were each made available for public comment, receiving close to 5,000 comments from Congress, stakeholders, and the public (The White House Council on Environmental Quality 2009a; 2009b; 2010b). Overall, they provide a *National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes*, a strengthened government structure for a sustained, high-level, and coordinated approach, a targeted implementation strategy that identifies nine categories of action, and a framework for effective coastal and marine spatial planning (The White House Council on Environmental Quality 2010a:2-3). It is important to note that among the National Policy components (see Table 5), one explicitly states that it is the policy of the United States to “respect and preserve our Nation’s maritime heritage, including our social, cultural, recreational, and historical values” (The White House Council on Environmental Quality 2010a:3). In order to improve coordination among agencies, the Task Force recommended the establishment of a National Ocean Council to consolidate and strengthen the existing Principal- and Deputy-level components of the Committee on Ocean Policy within a single structure. The National Ocean Council is responsible for

advising the President, implementing national policy (including strategic action plans, coastal and mapping spatial planning and budgetary concerns), coordinating and resolving issues of overlapping responsibility, and encouraging decision making (The White House Council on Environmental Quality 2010a:21-23). The Ocean Resource Management Interagency Policy Committee, the Ocean Science and Technology Interagency Policy Committee, the Governance Coordinating Council, and the Ocean Research and Resources Advisory Panel are all to serve the National Ocean Council in advisory capacities (The White House Council on Environmental Quality 2010a:24-27). The Executive Order itself also directs the establishment of Regional Advisory Committees to provide further support (Executive Order 13547: Stewardship of the Ocean).

The Task Force's nine priority objectives range between policy formulation and specific actions, providing overall guidance for the development of future strategic action plans (Table 6). At the same time, the framework proposed by the task force for coastal and marine spatial planning focuses on a comprehensive, integrated, region-based approach based on science and coordinated coastal and marine spatial plans (Table 7). The aims of the plan include reducing conflicts among uses, reducing environmental impacts, facilitating compatible uses, and preserving critical ecosystem services. As it will incorporate both federal and state waters, the Coastal Marine Spatial Planning program will complement and supplement the Multipurpose Marine Cadastre initiatives, as the former calls for a national information management system and the latter for a centralized system with potentially regional portals that connect to pertinent information.

**TABLE 5.** *National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes*  
(*The White House Council on Environmental Quality 2010a:3*)

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It is the Policy of the United States to:

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- Protect, maintain, and restore the health and biological diversity of ocean, coastal, and Great Lakes ecosystems and resources;
- Improve the resiliency of ocean, coastal, and Great Lakes ecosystems, communities, and economies;
- Bolster the conservation and sustainable uses of land in ways that will improve the health of ocean, coastal, and Great Lakes ecosystems;
- Use the best available science and knowledge to inform decisions affecting the ocean, our coasts, and the Great Lakes, and enhance humanity's capacity to understand, respond, and adapt to a changing global environment;
- Support sustainable, safe, secure, and productive access to, and uses of the ocean, our coasts, and the Great Lakes;
- Respect and preserve our Nation's maritime heritage, including our social, cultural, recreational, and historical values;
- Exercise rights and jurisdiction and perform duties in accordance with applicable international law, including respect for and preservation of navigational rights and freedoms, which are essential for the global economy and international peace and security;
- Increase scientific understanding of ocean, coastal, and Great Lakes ecosystems as part of the global interconnected systems of air, land, ice, and water, including their relationships to humans and their activities;
- Improve our understanding and awareness of changing environmental conditions, trends, and their causes, and of human activities taking place in ocean, coastal, and Great Lakes waters; and
- Foster a public understanding of the value of the ocean, our coasts, and the Great Lakes to build a foundation for improved stewardship.

**TABLE 6.** *National Priority Objectives as per the Interagency Ocean Policy Task Force (The White House Council on Environmental Quality 2010a:5)*

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National Priority Objectives	
1.	<b>Ecosystem-Based Management:</b> Adopt ecosystem-based management as a foundational principle for the comprehensive management of the ocean, our coasts, and the Great Lakes.
2.	<b>Coastal and Marine Spatial Planning:</b> Implement comprehensive, integrated, ecosystem based coastal and marine spatial planning and management in the United States.
3.	<b>Inform Decisions and Improve Understanding:</b> Increase knowledge to continually inform and improve management and policy decisions and the capacity to respond to change and challenges. Better educate the public through formal and informal programs about the ocean, our coasts, and the Great Lakes.
4.	<b>Coordinate and Support:</b> Better coordinate and support Federal, State, tribal, local, and regional management of the ocean, our coasts, and the Great Lakes. Improve coordination and integration across the Federal Government, and as appropriate, engage with the international community.
5.	<b>Resiliency and Adaptation to Climate Change and Ocean Acidification:</b> Strengthen resiliency of coastal communities and marine and Great Lakes environments and their abilities to adapt to climate change impacts and ocean acidification.
6.	<b>Regional Ecosystem Protection and Restoration:</b> Establish and implement an integrated ecosystem protection and restoration strategy that is science-based and aligns conservation and restoration goals at the Federal, State, tribal, local, and regional levels.
7.	<b>Water Quality and Sustainable Practices on Land:</b> Enhance water quality in the ocean, along our coasts, and in the Great Lakes by promoting and implementing sustainable practices on land.
8.	<b>Changing Conditions in the Arctic:</b> Address environmental stewardship needs in the Arctic Ocean and adjacent coastal areas in the face of climate-induced and other environmental changes.
9.	<b>Ocean, Coastal, and Great Lakes Observations, Mapping, and Infrastructure:</b> Strengthen and integrate Federal and non-Federal ocean observing systems, sensors, data collection platforms, data management, and mapping capabilities into a national system, and integrate that system into international observation efforts.

**TABLE 7.** *National Goals of Coastal and Marine Spatial Planning as per the Interagency Ocean Policy Task Force (The White House Council on Environmental Quality 2010a:7)*

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National Goals of Coastal and Marine Spatial Planning

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- Support sustainable, safe, secure, efficient, and productive uses of the ocean, our coasts, and the Great Lakes, including those that contribute to the economy, commerce, recreation, conservation, homeland and national security, human health, safety, and welfare;
- Protect, maintain, and restore the Nation’s ocean, coastal, and Great Lakes resources and ensure resilient ecosystems and their ability to provide sustained delivery of ecosystem services;
- Provide for and maintain public access to the ocean, coasts, and Great Lakes;
- Promote compatibility among uses and reduce user conflicts and environmental impacts;
- Improve the rigor, coherence, and consistency of decision-making and regulatory processes;
- Increase certainty and predictability in planning for and implementing new investments for ocean, coastal, and Great Lakes uses; and
- Enhance interagency, intergovernmental, and international communication and collaboration.

The MMC anticipates playing a key role by integrating regional data into its map viewers, and by providing core data to regional viewers (Bureau of Ocean Energy Management and National Oceanic and Atmospheric Administration 2011b; Department of the Interior 2011). The precise nature of the interrelationship is still to be determined. The final component of the task force recommendations is its unanimous and strong support of the 1982 Convention on the Law of the Sea and ratification of its 1994 Implementing Agreement in order to further national security, environmental, economic,

and diplomatic interests (The White House Council on Environmental Quality 2010a:8-9).

***Abandoned Shipwrecks (43 U.S.C. 39 § 2101-2106)***

The Abandoned Shipwreck Act of 1987 is based on the determination that states have the responsibility for the management of a broad range of resources in state waters and submerged lands, and that included in these resources are abandoned shipwrecks which have been deserted and to which the owner has relinquished ownership rights. Passage of the ASA followed years of contradictory interpretations of the SLA by courts tasked with determining a coastal state's ownership rights to abandoned shipwreck located in or on its state submerged lands (Hutt, et al. 2004:125). The 1985 legal victory of Melvin Fisher in *Cobb Coin Company, Inc. v. The Unidentified Wrecked and Abandoned Sailing Vessel*, 525 F. Supp. 186 (S.D. Fla 1981) ultimately prompted Florida, Texas, and other coastal states to petition Congress for a law that specifically would protect abandoned shipwrecks within state waters (Hutt, et al. 1999:401).

In Section 2102, the ASA begins by defining certain key terms, including "shipwreck," which means a vessel or wreck, its cargo, and other contents. "Submerged lands" are defined as those lands beneath navigable waters as expressed in the SLA, along with separate provisions for Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands. The definitions for "Public lands," "Indian lands," and "Indian tribe" refer to the equivalent definitions in ARPA. Finally, and of importance, "embedded" is defined as "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” (43 U.S.C. § 2101[a]).

The second Section of the ASA, 2102, declares Congressional policy requiring states to develop appropriate and consistent policies to protect natural resources and habitat areas, guarantee recreational exploration of shipwreck sites, and allow for appropriate public and private sector recovery of shipwrecks. The latter must be consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites. The Section also encourages states to create underwater parks in order to provide additional protection for such resources and authorizes funds available to states from the Historic Preservation Fund to be available for the study, interpretation, protection, and preservation of historic shipwrecks and properties. To support the development of underwater parks and the administrative cooperation necessary for the management of underwater resources related to historic shipwrecks, the Secretary of the Interior, acting through the Director of the NPS, was charged with preparing and publishing guidelines in the Federal Register, in consultation with the Secretary of Commerce, the ACHP, SHPOs, and interest groups. The guidelines were required to address four key priorities that include a) maximizing the enhancement of cultural resources; b) fostering collaboration among stakeholders (including fishermen, divers, and salvors) in managing shipwreck resources of the states and the United States; c) facilitating access and utilization by recreational interests; and d) recognizing the interest of those interested in shipwreck discovery and salvage. The purpose of the

guidelines, in part, was to assist state and federal agencies in developing legislation and regulations to carry out ASA responsibilities.

Section 2105 addresses title and ownership matters. At first the United States asserts ownership to any abandoned shipwreck that is either embedded in the submerged lands of a state, embedded in coralline formations protected by a state on its submerged lands, or on submerged lands of a state if the shipwreck is included in or eligible for inclusion in the NRHP. In the case of the last category, the Secretary of the Interior, after consultation with the appropriate SHPO, is responsible for making a written determination that an abandoned shipwreck meets eligibility criteria for the NRHP in order to give the public adequate notice of any shipwreck to which title is asserted. The same section proceeds to transfer title of any abandoned shipwreck the federal government asserts ownership over to the state in or on whose submerged lands that shipwreck is located. However, any abandoned shipwreck in or on the public lands of the United States remains the property of the United States government, while abandoned shipwrecks in or on any Indian lands is the property of the Indian tribe owning such lands. Finally, the last Section of the ASA, 2106, states that the law of salvage and the law of finds shall not apply to abandoned shipwrecks which fall under section 2105, a provision intended on removing such shipwrecks from the jurisdiction of Federal Admiralty Court.

Following implementation of the Act, the NPS published the *Abandoned Shipwreck Act Guidelines* in 1991 (55 F.R. 50116), having considered comments submitted by 66 organizations and individuals, the results of 11 public meetings, and the



content of 130 letters of opinion. There have since been two Federal Register notices of correction (55 F.R. 51528, 56 F.R. 7875), and the final compilation has been posted by NPS on their website (U.S. Department of the Interior N.d.-a).

While the ASA is the only federal piece of legislation specifically addressing submerged cultural resources and serves an important purpose, it has also been surrounded by a number of concerns. The geographical extent of its application, in essence state waters, has been a significant drawback in the eyes of those who see greater potential in the Act. The fact that it only applies to shipwrecks and not to other types of submerged cultural resources such as buildings, ports and prehistoric sites, is also among the expressed concerns. Finally, the ASA recognizes commercial salvors as a legitimate group elevated to the status of a stakeholder; this principle is far from the norm when considering cultural resources on land, and, Carrell (1996) argues, it actually provided the legal means by which commercial treasure salvors could affect federal management plan development (Elia 2000:46).

The most prevalent issue hindering the ASA's effectiveness, however, has been the fact that the law itself does not define the crucial term *abandoned*. This has led to legal challenges over the years, including the case of *Deep Sea Research, Inc. v. The Brother Jonathan*, 89 F. 3d 680 (9<sup>th</sup> Cir. 1996) and *Deep Sea Research, Inc. v The Brother Jonathan and California*, 118 S. Ct. 1464 (1998), where the commercial salvor was successful in filing an admiralty claim over a vessel the state of California considered abandoned. The federal appeals court ruled that California had not proved that the ship had been abandoned, despite the fact that no salvage effort had been

attempted for more than 100 years (Varmer and Blanco 1999). Weighing in, the Supreme Court affirmed admiralty jurisdiction because the wreck was not in the state's possession but declined to rule on the question of abandonment. Instead, it directed the district court to determine whether or not the wreck was "abandoned" consistent with that term's traditional meaning under admiralty law cases – when a long period of time has passed and the owner of the vessel has not attempted to salvage it or establish a claim thereto (Hutt, et al. 2004:126).

By not codifying the meaning of "abandonment," Hutt argues, Congress left the NPS, the states, and ultimately the federal admiralty courts to define it, resulting in conflicting case law over what shipwrecks are abandoned, who has the burden of proving abandonment, and what evidence is needed to demonstrate it (Hutt, et al. 1999:449). Questions over abandonment, however, have not precluded federal courts from applying the ASA in a manner that has favored state preservation efforts. Most recently the *Dunkirk Schooner*, an impressively preserved shipwreck in Lake Erie, was awarded to the state of New York after Northeast Research LLC filed a claim for salvage rights. This was also a strong example of state and federal authorities working together as the NPS approved the state's initial request for an official determination of eligibility to the NRHP within a day of its receipt, bolstering New York's presence in court. This case also serves as a cautionary tale when considering salvor-preservationist partnerships, as the salvor, which had been granted a permit by New York State Museum to engage in limited investigational excavation, violated the conditions of the license,

failed to report the discovery of human remains, and proceeded to desecrate them, ultimately leading to their permit being revoked by the state (Toner 2011).

***Transportation (“Section 4[f]”) & (Transportation Enhancement Activities)***

Two separate statutes that are of importance to historic preservation projects, and as such maritime cultural resources, pertain to authorities vested in the U.S. Department of Transportation.

***Policy on Lands, Wildlife and Waterfowl Refuges, and Historic Sites (49 U.S.C. 3 § 303)***. Section 303 (formerly Section 4[f]) of Title 29 represents the Department of Transportation Act of 1966, as amended by the Federal-Aid Highway Act of 1968, and includes some particularly strong historic preservation statutes, albeit limited in scope to the transportation programs that require approval of the Secretary of the Department of Transportation. The section begins with a declaration of policy that the United States government should make a special effort to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and historic sites. Therefore, the Secretary of Transportation is charged with cooperating and consulting with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, along with the states, to develop transportation plans and programs that include provisions to maintain or enhance lands affected by transportation activities or facilities. In particular, the Secretary may only approve a transportation program or project (with some exceptions) that affects these sensitive areas, including historic sites

of national, state, or local significance, if they meet two conditions. The first is that there is no prudent and feasible alternative to using that land and the second is that that program or project includes all possible planning to minimize the harm to the park, recreation area, wildlife and waterfowl refuge or historic site resulting from the use. The U.S. Supreme Court provided definitions for the terms “feasible” and “prudent” in *Citizens to Preserve Overton Part v. Volpe* (401 U.S. 402 [1971]). Accordingly, an alternative to a transportation project is deemed “feasible” if it can be built as a matter of sound engineering; an alternative is “prudent” if there are no “truly unusual factors present in a particular case or the cost or community disruption resulting from [the] alternative [does not reach] extraordinary magnitudes” or present “unique problems” (Hutt, et al. 1999:16).

Specifically when it comes to historic sites, the Secretary must find that a program or project will have a *de minimis* impact on the area. In order to make such a finding the Secretary must determine, in accordance with Section 106 consultation process, that the program or project will have no adverse effect on the historic site, or that there will be no historic properties affected. The applicable SHPO or THPO, and when appropriate the ACHP, must concur with this finding in writing and confirm that it was developed through consultation. When it comes to potentially affecting historic properties, including maritime cultural resources, these two conditions place a significant requirement on transportation programs or projects that require approval of the Secretary of Transportation

*Transportation Enhancement Activities (23 U.S.C. 1 §101, 133).* The second provision of transportation-related laws that has made a significant impact on both historic preservation and archaeological research comes from 23 U.S.C. 1 and relates to transportation enhancement activities. Section 101 defines what qualifies as such an activity by instituting 12 categories of eligible undertakings. Several of these categories may apply to maritime heritage-related resources and include a) the acquisition of scenic easements and scenic or historic sites (including historic battlefields); b) historic preservation; c) rehabilitation and operation of historic transportation buildings, structures or facilities (including historic railroad facilities and canals); d) archaeological planning and research; and e) establishment of transportation museums. Section 133 directs the Secretary of Transportation to establish a surface transportation program and obligate funds for a series of prescribed programs, including transportation enhancement activities. With some exceptions, surface transportation programs may not be undertaken on roads classified as local or rural.

Each year, transportation enhancement activities are allocated at least 10 percent of state apportioned funds for that fiscal year and this allocation may only be used for such purposes. In 1998, under the Transportation Equity Act for the 21st Century (Pub. Law 105-78), Congress provided \$3.6 billion of funding to be dedicated to transportation enhancement programs through 2003, something extended in one-year increments for 2003 and 2004. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, enacted in 2005, extended \$4 billion to transportation enhancement programs through 2009. Since the expiration of this last Act, Congress has passed eight

extensions of the 2005 surface transportation bill; however, progress has not been made towards reauthorization. There is also growing concern over the future of the program as, in recent months, Republican-sponsored extension proposals have called for the elimination of the program, the exclusion of some currently eligible activities, or removal of its dedicated funding status, deferring instead to the states to decide whether the programs should be continued. Democratic proposals, on the other hand, tend to support the program which is viewed in part as infrastructure investment spending. The lack of consensus has resulted in an uncertain future for this important program (Shales 2011).

In terms of the statute itself, the Secretary of Transportation is authorized to advance funds to states for prompt payment of project costs. The Secretary is also charged with, to the extent appropriate, developing categorical exclusions for NEPA-required environmental assessments or an environmental impact statement prepared for transportation enhancement activities. Finally the statute requires the Secretary, in consultation with NCSHPO and ACHP to develop a nationwide programmatic agreement governing the review of transportation enhancement activities, in accordance with Section 106 of NHPA and ACHP regulations.

While the federal share of the cost of an individual project may be up to 100 percent, the average annual non-federal share of the total cost of all transportation enhancement projects within a state each fiscal year may not be less than the non-federal share authorized for that state's overall programs. However, funds from other federal agencies and the value of other contributions may be credited toward the non-federal

share of the costs of a project, and the share for such a project may be calculated on a project, multi-project, or program basis. In a related provision, the Transportation Equity Act for the 21st Century (Pub. Law 105-78) charged the Secretary of Transportation to encourage states to enter into contracts and cooperative agreements with qualified youth conservation or services corps (as defined in 42 U.S.C. 129 § 12572, 12656) to perform appropriate transportation enhancement activities.

The Federal Highway Administration provides oversight and guidance for the Transportation Enhancement Activities Program, although much of the public outreach is undertaken by the National Transportation Enhancements Clearinghouse, funded through a cooperative agreement between the Rails-to-Trails Conservancy and the Federal Highway Administration (National Transportation Enhancements Clearinghouse 2011a; U.S. Department of Transportation 2011a; U.S. Department of Transportation 2011b). Since the inception of the Transportation Enhancements Activities Program in 1991, the initiative has funded more than 20,000 projects nationwide (National Transportation Enhancements Clearinghouse 2007:3). Working within Federal Highway Administration guidelines, each state Department of Transportation determines the eligibility of transportation enhancement projects for funding. Since 1992, approximately 3 percent of funds have been programmed for scenic and historic acquisition projects, 4 percent dedicated to historic preservation projects, 10 percent to historic transportation buildings, less than 1 percent to archaeological planning and research, and approximately 1 percent to transportation museum projects (National Transportation Enhancements Clearinghouse 2011b; 2011c; 2011d; 2011g; 2011h;

2011i). All five categories, however, have already made a significant contribution to maritime heritage preservation whether through acquisitions enabling the Makapu'u Point Lighthouse Trail in Hawaii, historic property rehabilitations such as the Ferry Building in San Francisco, Absecon Lighthouse in Atlantic City, North Point Lighthouse in Milwaukee, Tybee Island Lighthouse in Georgia, and the Jersey Central Ferry Terminal, the establishment of the River Heritage Museum in Kentucky, or through a multitude of archaeological research projects on sites such as the Lewes shipwreck, USS *Scorpion*, shipwrecks within the Whitefish Point Underwater Preserve and Matagorda Bay, the La Salle shipwreck, or underwater archaeological surveys in Vermont (National Transportation Enhancements Clearinghouse 2011d; 2011e; 2011f; 2011g; 2011i).

## **STATE LAWS AND REGULATIONS**

Whereas international agreements and federal laws set the tone and frame the legal mandate surrounding a large portion of maritime and submerged cultural heritage resources, it is important to note the role of individual state laws, especially when it comes to underwater archaeological sites located in inland waters and along the nation's coasts. Following the passage of the SLA, several states enacted legislation asserting title to and control of historic shipwrecks on state-submerged lands (Elia 2000:46). As subsequently established by the ASA and the NHPA, management of historic properties and abandoned shipwrecks under state jurisdiction, including submerged lands, in large part falls upon the states themselves. While maritime heritage resources located on land or floating above water are generally treated like other types of potentially historic

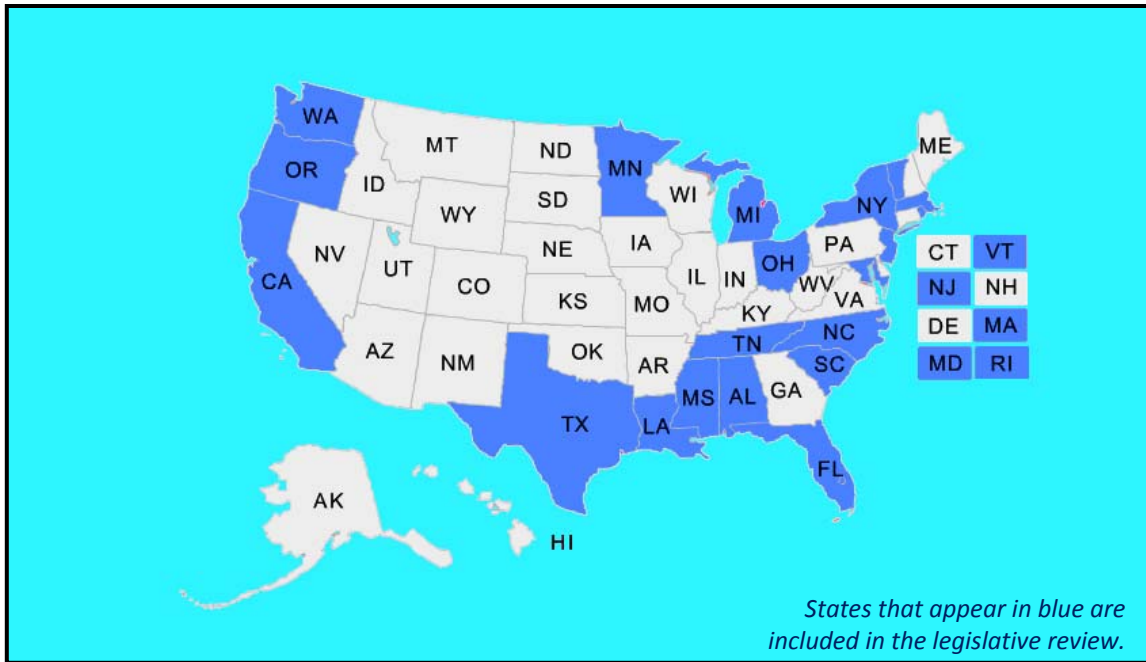


properties, treatment of submerged cultural heritage varies greatly across regions and states. Not all states have opted to specifically address submerged cultural resources in their legislation, though several have, and a small number have even instituted state underwater archaeology programs.

Of the states that have selected to actively engage in the preservation and management of their submerged resources, there is a great disparity between their legal provisions, as well as the manner in which states have selected to implement them. What follows is a review of twenty states' laws and regulations as they apply to submerged cultural resources. The states under review were selected on the basis of garnering a representative sample of geographic and legislative approaches, while concentrating on those states which have laws and programs that focus on submerged cultural resources. The review is not comprehensive but rather addresses each law and set of regulations in a cursory manner, highlighting key facets and concepts of each program.

It is important to note that a state's laws do not necessarily fully reflect its historic preservation programs, as the interpretation and implementation of laws are often equally as important as their text. Simply because certain provisions are included within the laws described below does not indicate that those provisions are executed on a regular basis. Laws vary according to the date of their enactment, their scope, the influence of powerful stakeholders, and the individual set of conditions that led to their development. Resource preservation is not always the primary driver, and cultural resource managers are often hamstrung by the laws that govern their programs, often while attempting to change them. The reality of funding shortages lead to compromises

having to be made; often states are unable to expand their reach beyond terrestrial sites to areas that require the specialized experience and support needed by submerged cultural resources. As a result, critiquing individual state laws and programs is not within the scope of this overview, particularly given that programs are not examined in their entirety and across time. Rather, the purpose of this overview is to demonstrate the differences in program structures, types of protected resources, degrees of protection, and the relation between the treatment of terrestrial and underwater cultural heritage. These varied approaches are at times reflected in the various titles, terms, and terminologies adopted by each state, which are all maintained in the following review. Accordingly, the words “archaeology” or “archaeological” may also appear as “archeology” or “archeological.” The states included in the overview are presented in Table 8 and are arranged in alphabetical order. Their distribution, which demonstrates the geographic breadth of the sample, is illustrated in Figure 6. For those interested in reviewing the submerged cultural resources laws of each state, the NPS maintains a particularly useful summary prepared by Michele C. Aubry and accessible to all online (U.S. Department of the Interior 2009b).



**FIGURE 6.** Geographic distribution of states whose laws and regulations are included in the representative sample under review.

**TABLE 8.** *List of States whose Laws and Regulations are Included in the Representative Sample under Review.*

Order of Review	States
1	Alabama
2	California
3	Florida
4	Louisiana
5	Maryland
6	Massachusetts
7	Michigan
8	Minnesota
9	Mississippi
10	New Jersey
11	New York
12	North Carolina
13	Ohio
14	Oregon
15	Rhode Island
16	South Carolina
17	Tennessee
18	Texas
19	Vermont
20	Washington

### ***Alabama***

The Code of Alabama has a Division (Article 10, Division 3a) dedicated specifically to submerged cultural resources which represents the codification of the Alabama Underwater Cultural Resources Act. Within it, the state declares control of its cultural

resources, as they are defined below (Section 41-9-92). Related regulations are found in the state's Administrative Code where Section 460-x-12 is dedicated to Alabama's Underwater Cultural Resources, and Section 460-x-9-03 is dedicated to Submerged Cultural Resource Surveys. The definition of "cultural resources" as it appears in both the Code of Alabama and the Administrative Code includes all abandoned shipwrecks or associated remains and all underwater archaeological treasures, artifacts, treasure troves, or other cultural artifacts and materials, whether or not associated with any shipwreck. Such resources need to be resting in or on submerged state lands, be unclaimed for more than 50 years, and be eligible for or listed on the NRHP or the Alabama Register of Landmarks and Heritage (Code of Alabama Section 41-9-291). The aforementioned definition, which describes certain cultural resources as underwater archaeological treasures, together with a separate definition for *treasure trove* found within the same section, are both indicative of what could be considered a weakened preservation mandate. While provisions are made for contracts and this terminology may be suggestive, the Code of Alabama specifically states that (with some exceptions) cultural resources shall not be taken, damaged, destroyed, salvaged, excavated, or otherwise altered without permission from the Alabama Historical Commission (Section 41-9-292) (Alabama Historical Commission N.d.). Two such permits apply to underwater cultural resources in the Administrative Code: one aimed towards exploration and evaluation of sites, and a second one geared towards excavation and salvage. Although the Code of Alabama also includes recreational diving permits (Section 41-9-294), recreational diving is permitted without further approvals within the regulations. Another provision

of interest is that the Alabama Commission may request the Alabama Department of Conservation and Natural Resources to restrict commercial fishing activities in or around the immediate vicinity of a known cultural resource. This is particularly important with the growing concerns over trawling activities and the damage they may cause to submerged cultural resources.

The state goes further in assisting institutions, groups, or individuals in conducting submerged resource assessments for compliance purposes through providing minimum professional standards that need to be adhered to (Sections 460-x-9.01 to 460-x-9-.03). These guidelines apply to professional qualifications, field work, laboratory analysis, and curation, and reports. While not exceedingly detailed, they do set a threshold that must be attained. Surveys, for example, must at minimum include a magnetometer, a side-scan sonar, and an examination of sub-bottom materials. Other than setting a line-spacing of no greater than 50 meters, however, no other parameters are stipulated. The Alabama Historical Commission does have the ability to review each case individually and request appropriate requirements, particularly when it comes to excavation or salvage permits. One last clause of the Code of Alabama that is important to mention is that intentional theft or disturbance of cultural resources may be classified as misdemeanors, if the affected resource had a value of less than \$1,000, or felonies, in cases where the value exceeded \$1,000 (Section 41-9-297). It is worth noting that there are currently efforts underway to undermine certain clauses of Alabama Cultural Resources Act so as to enable the unrestricted collection of isolated finds (The Anniston Star Editorial Board 2012).

### *California*

California's Public Resources Code (Section 6301-6314) outlines the state's *Shipwreck and Historic Maritime Resources Program*. The State Historical Resources Commission is given exclusive jurisdiction with respect to salvage operations over and upon all tidal and submerged lands of the state, and it also regulates the permitting process (Section 6314) (California State Parks: Office of Historic Preservation 2012b). In this case, salvage broadly refers to any activity, including search by electronic means, exploration, or excavation using tools or mechanical devices that aims at locating and recovering vessels, aircraft, or any other cultural object from the surface or subsurface of state submerged lands (Section 6313). Therefore, even non-intrusive means of exploration require a permit; in fact, permits may be issued by the State Historical Resources Commission for both historic and non-historic sites. At the same time, cultural resources, whether submerged archaeological sites or submerged historic sites, are to be given the broadest possible meaning and include objects, structures, buildings, watercraft, aircraft, associated cargo, or human remains. They are also to include any site, area, person, or place which is historically or archaeologically significant in prehistory or history, or exploration, settlement, engineering, commerce, militarism, and culture of California (Section 6313).

The Commission, with assistance from the State Office of Historic Preservation, is also charged through Section 6313 with identifying, compiling, and maintaining an inventory of submerged sites that carry archaeological and historical significance and with making it available to the public (California State Parks: Office of Historic

Preservation 2012a). In pursuit of this mission, the Office of Historic Preservation collaborates with other entities such as the Department of Parks and Recreation to support the state's underwater parks system (California State Parks: California Department of Parks and Recreation 2012). Permits themselves are limited to educational, scientific, or cultural purposes, or the need to protect the integrity of a site or resource (Section 6313). Overall, the state appears to take a very preservation-minded approach to its submerged cultural resources. There is, however, an interesting clause whereby the Commission may contract with persons, firms, corporations, or institutions, who, in order to obtain temporary possession of recovered archaeological resources, advance the Commission funds to conduct salvage operations or purchase from the permit-holder his or her "fair share" of archaeological resources the Commission determines should remain property of the state. Through repaying the funds, the Commission may recover the possession of the resources. While in possession of the entity advancing the money, the resources must be available for public viewing for a nominal fee or without charge. This clause not only suggests that a permit-holder is entitled to a fair share of archaeological resources recovered under permit, but also places a value on such resources and enables the Commission to raise funds through the conditional transfer of possession of artifacts (Section 6313). Violations may result in imprisonment of no more than six months, a fine that does not exceed \$5,000, or both. In addition, the state may seek civil damages for the harm, loss, or destruction of an abandoned shipwreck and associated contents, as well as archaeological sites or historic resources located on or in submerged lands of the state. Vessels used to commit the



violation may be subject to a proceeding *in rem*, whereby the state confiscates them (Section 6314).

### ***Florida***

Within the 2007 Florida Statutes, Title XVIII, Chapter 267 is dedicated to Historical Resources. Section 167.061(1)a expressly states that all treasure troves, artifacts, and objects having intrinsic or historical and archaeological value which have been abandoned on state-owned lands or state-owned submerged lands shall belong to the state and managed under the Division of Historical Resources. The Division may impose a fine or apply to a court for injunctive relief against any person or business organization that explores for, salvages, or excavates treasure trove, artifacts, sunken, or abandoned ships, among other historically or archaeologically significant objects without permission (Section 267.13). The Office of Cultural and Historical Programs, which includes the Bureau of Archaeological Research, employs a dedicated State Underwater Archaeologist along with additional staff that together engage in a robust program of inventorying, documenting, managing, and informing the public about the state's maritime resources (Florida Department of State: Division of Historical Resources N.d.-b). The Division also maintains a system of 11 underwater preserves, supports a maritime heritage trail, as well as engages in outreach initiatives with partner institutions such as the Florida Public Archaeology Network (e.g., Heritage Awareness Diving Seminar) (Division of Historical Resources 2007; Florida Department of State: Division

of Historical Resources N.d.-a; Florida Department of State: Division of Historical Resources N.d.-c).

What is noteworthy in the case of Florida statutes, however, is that Section 267.031 empowers the Division to issue two types of permits: those for archaeological excavation for scientific or educational purposes and those for exploration and salvage of historic shipwrecks by commercial salvors on state-owned lands. In managing the latter, the Division is instructed to adopt rules to administer the transfer of objects recovered by commercial salvors under permit in exchange for recovery services provided to the state.

The Division has therefore drafted the recently updated Chapter 1A-31 within its Historic Preservation Rules, addressing procedures for conducting exploration and recovery of historic shipwreck sites. It has established two types of permits to be issued to commercial salvors, Exploration Permits and Recovery Permits, and has removed a number of clauses that appeared in earlier versions of the regulations. While pre-existing agreements are honored and remain unaffected, the revised Chapter does attempt to tackle this challenging mandate in a restrictive manner. Of note is the fairly extensive list of sites and areas that are simply deemed non-permittable and which include sunken military craft (as defined in the SMCA), sites within the National Park System or National Marine Sanctuaries, areas of state jurisdiction such as parks and preserves, and historic shipwreck sites of singular historical or archaeological significance, as measured against the criteria established for National Historic Landmark designations. Further restrictions are posed in that the Division states it shall not issue more permits that can

properly be supervised, monitored, or administered. In addition, issued permits require the participation of a professional underwater archaeologist in the position as project archaeologist, with specific qualification marks that need to be met. The project archaeologist is required to develop a research design, be present and inspect excavation of areas that may contribute to the site's interpretation and the formulation of an interim and final report, and ensure archaeological standards are met in terms of what is necessary to meet the appropriate guidelines required for archaeological reports. Applications are reviewed with a number of criteria in mind, including the public policy of the state to preserve and protect archaeological sites and objects for the public benefit and to limit exploration, excavation, and collection of such matters to qualified persons and educational institutions possessing the requisite skills and purpose to add to historical, archaeological, and anthropological knowledge.

Despite all these restrictive provisions, however, the Chapter does maintain guidance for the transfer of archaeological materials and title of those materials conveyed. While specific provisions are to be specified in each recovery permit, in general, the permittee is entitled to receive approximately 80 percent of recovered archaeological materials, while the Division retains 20 percent. The distribution is based on the historical value of recovered materials as negotiated by the Division and the permittee and artifacts recovered under both Exploration Permits and Recovery Permits, as well as current holdings in the Division collections are taken into consideration. Title is conveyed together with each transfer of archaeological materials.

### *Louisiana*

The state of Louisiana carries provisions similar to those of Florida in its Revised Statutes, under Title 41, Chapter 13, dedicated to archaeological resources. The Division of Archaeology, located within the Department of Culture, Recreation and Tourism, is charged with promulgating reasonable rules and regulations concerning the recovery and study of historic and prehistoric archaeological remains, including those within the tidelands, submerged lands, and the bed of the sea within the jurisdiction of the state (Louisiana Department of Culture 2012) All sunken or abandoned ships and wrecks of the sea or rivers, any part of their contents, and all treasure embedded in the earth or underwater are specifically made reference to when the responsibilities of the Division are outlined in Section 1604. The same terminology is applied in Section 1605 through which the state asserts ownership over all sunken or abandoned pre-20<sup>th</sup> century ships and wrecks, their contents, and all archaeological treasure located in, on or under the surface of lands belonging to the state. It is unlawful to take, alter, damage, destroy, or excavate on state-owned lands without a permit or a contract issued by the state. The former are issued for purely scientific and educational projects and all recovered materials remain the property of the state with no compensation to the permittee based on the value of the recovered remains. The latter are issued in instances where such compensation is provided.

Section 1607 discusses the provisions of recovery contracts stipulating that such contracts require the approval of the attorney general and may provide for fair compensation to the salvager and owner of the private land where applicable, in terms of

a percentage of the reasonable cash value of the objects recovered. At the discretion of the secretary of the Department and with the advice of the Division, contractors may also be compensated with a fair share of the objects recovered themselves. What constitutes a “fair share” is to be determined by taking into account the circumstances of each operation and the reasonable cash value of the recovered objects as appraised by qualified experts. Superior title to all recovered objects remains with the state unless released by the secretary.

Louisiana’s Administrative Code, Title 25, Chapter 1 pertains to regulations of or affecting the Division of Archaeology. Among the terms defined is *underwater archaeology* which is used to mean archaeological investigations conducted through the use of SCUBA or surface-supplied air equipment. In general, the sites under consideration are totally submerged and can be divided into prehistoric, historical sites, and nautical sites. The regulations also proceed to list the qualifications of an underwater archaeologist (for the purposes of the regulations), which set a fairly high professional standard. What is most interesting about the regulations, however, is that Subchapter F pertains to underwater investigations. In particular, the regulations that outline contract requirements state that, due to the potentially high monetary value of the objects that conceivably will be recovered by underwater exploration, a number of stipulations must be met. These stipulations demonstrate both a care for the artifacts such as the capability for immediate stabilization, treatment, and preservation of underwater remains, but also persistence in the impression of the high monetary value of recovered artifacts. Objects retrieved from water sites are to be inventoried immediately by a representative of the

commission and thereafter deposited in a place of safekeeping which has a degree of security commensurate with their value. At least one state representative must be aboard at all times, whose expenses are covered by the contractor. Finally, Section 181 states that under certain conditions a reasonable percentage of the recovered remains may be allocated to the contractor as fair compensation for their salvage.

### ***Maryland***

The state of Maryland has taken on a proactive approach in its legislation with the Maryland Submerged Archeological Historic Property Act of 1988 which was codified in the Annotated Code of Maryland (Section 5A-333). The Code makes a provision for a State Underwater Archaeologist and the Archaeology Office, located within the Maryland Historical Trust, which is responsible for management, research, and preservation of heritage resources, with an emphasis placed on public education initiatives. The State's Advisory Committee on Archaeology includes the State Underwater Archaeologist and provides advice on archaeological policies, plans and regulations.

For the purposes of the Code, the term *submerged archaeological historic property* is defined much along NRHP guidelines as any underwater structure, remains, or object that yields or is likely to yield information significant to the study of prehistory, history, or culture, and a) is so embedded in underwater land that excavation tools are required to reach all or part of it and it has remained unclaimed for at least 100 years, or b) it is included or eligible for the NRHP. This is a fairly broad definition and

interesting in its requirements, though, as with the other states, Maryland claims ownership of submerged archaeological historic property on state lands. Maryland's Maritime Archeology Program is a dynamic and experienced office that effectively manages research, administration, permitting and public outreach responsibilities. It also maintains an active volunteer program and together with the NHHHC manages the U-1105 "Black Panther" Historic Shipwreck Preserve (Maryland Department of Planning: Maryland Historical Trust 2011).

Here too, however, title to recovered submerged cultural resources may be conveyed via permit and divided between the state and permit holder. Subject to approval of the Board of Public Works, the division may be in value or in kind. The same Section (5A-340) provides for reasonable compensation to permit holders who recovered submerged archeological historic property which is turned over to the state.

The Trust is charged with adopting regulations for issuing permits and transferring title to submerged cultural resources, in consultation with stakeholders. No permits are required to explore, document, or study a submerged resource if the site is not excavated, disturbed, or otherwise affected. Otherwise, a permit is necessary. What is perhaps unusual is that the regulations are required to allow an individual to collect a limited number of objects or materials either by hand or with the use of screwdrivers, wrenches, or pliers without a permit. At the same time, the Trust may not issue a permit to a person who seeks titles to part or all of submerged archaeological historic property for commercial salvage or other income-producing purposes. However, here too there are exceptions in the cases where the site is under imminent threat of substantial damage,

it is not of major scientific, archaeological, historical recreational or public value, or the proposed disturbance will be minor and will assist with the statewide historic preservation plan prepared by the Trust. Most interestingly perhaps, the Trust may also issue a permit to a commercial salvor if the submerged archaeological historic property will not be excavated or disturbed by any person in the foreseeable future and will remain submerged until it is excavated or disturbed. This provision appears to be the result of a compromise, enabling commercial salvors to obtain permits if no other applicants are in a position to undertake research on a site. A person who violates any term of a permit issued for use of submerged archaeological historic property for commercial salvage is guilty of a misdemeanor and on conviction is subject to imprisonment of up to a year with a fine not to exceed \$10,000. This is a much stricter penalty than other violations which carry a potential imprisonment term of no more than 30 days or a fine of \$1,000, or both.

Regulations for the Protection of Submerged Archeological Historic Property in Maryland can be found in Title 05, Subtitle 08, Chapter 03 of the Code of Maryland Regulations. Here too, the regulations attempt to apply restrictions to the provisions of the legal mandate, although sites can still be noticeably affected. Limited collection of artifacts is restricted to no more than 25 pounds, permit holders may not engage in such activities, sites included or determined eligible for either the NRHP or to be designated as a National Historic Landmark may not be collected from, and persons recovering artifacts must notify the Trust within 30 days. The Trust requires not only a list of objects and description of where they were recovered, but it also may require access to



any artifact for the purposes of documentation, analysis, and conservation. This is particularly important in cases of new discoveries that might not have yet been assessed for eligibility on the NRHP. In exceptional cases, the Trust may also require an option for the right of first refusal to acquire recovered artifacts. Furthermore, there is a list of sites where permits may be denied, including those included or determined eligible for inclusion on the NRHP or for designation as a National Historic Landmark. Also, if the applicant is a business entity, applications require a copy of organizational documents, includes its charter or articles of incorporation and bylaws. Finally, permit requirements may necessitate the monitoring of permit activities by a monitoring archaeologist selected or employed by the Trust.

The regulations are extensive in their requirements and stipulations for assessing and issuing intensive survey permits or data recovery permits. They address authorized activities, supervision, financial reliability, site security, maintenance of records (original logs remain the property of the state) and methodologies. Recovery of artifacts must be pre-coordinated with the State Underwater Archaeologist, and, unless a disposition agreement is in place, the permittee may not transfer, convey, or dispose of recovered artifacts. In discussing disposition of artifacts, the regulations establish that the state may ascertain its best interest and either retain the state's title, enter into a disposition agreement, or release the state's title. In the case of disposition agreement, the decision as to what historic property the state will retain is to be based on the Trust's assessment of the historic and archaeological significant of the property. However, there are a number of general guidelines to be followed. Among them is a provision that in the case

of sites over 100 years old but not included in or eligible for the NRHP, the Trust shall retain title to at least 5 percent but no more than 30 percent of recovered artifacts. For sites that are eligible, the Trust shall retain at least 20 percent but no more than 50 percent of recovered artifacts based on archaeological valuation (the average determined by a group of three archaeologists) and monetary market valuations (determined by three independent appraisers). In the case of sites designated as National Historic Landmarks, the general presumption is that the state's title will not be transferred to the permittee.

### ***Massachusetts***

The state of Massachusetts has adopted a fundamentally different approach to that of its counterparts through its General Laws, Part I, Title II, Chapter 6 in which it implements a Board of Underwater Archaeological Resources (Section 179). The Board consists of the state archaeologist, the state archivist, the director of waterways, the director of coastal zone management, the director of environmental law enforcement, the executive director of the Massachusetts historical commission, any of the aforementioned officials' designees, and three appointees of the governor – a marine archaeologist and two certified divers. Members are appointed for three-year terms and serve without compensation, but they are reimbursed for actual expenses incurred in the performance of their duties. Housed within the Massachusetts Office of Coastal Zone Management and part of the Executive Office of Energy and Environmental Affairs, the members elect a director of archaeological resources who, together with the board, is charged with encouraging the discovery, reporting of, and preservation of underwater archaeological

resources located within the inland and coastal waters of the state (Massachusetts Office of Coastal Zone Management 2011). In this instance, underwater archaeological resources, which are laid claim to by the state, are defined as having historical value and being abandoned properties, artifacts, treasure trove, or ships, unclaimed for 100 years and valued at \$5000 or more, along with any other objects at least 100 years old or judged by the Board to be of historical value located inside, upon, or around said resources (Section 180).

The Board is authorized to enter into agreements with the federal administration, and apply for federal funds or private grants to carry out its duties. The Board may also issue regulations regarding reporting and permit requirements for the removal and salvage of underwater archaeological resources so as to ensure the protection of their historical and educational value. Among its responsibilities of inventorying resources and designating underwater archaeological preserves, the institution may also grant permits to qualified persons, organizations, or corporations for orderly salvage or removal of archaeological resources. Part I, Title XIV, Chapter 91, Section 63 pertains to the salvage and recovery of underwater archaeological resources. Any type of exploration, recovery, or salvage which may result in the removal, displacement, or destruction of underwater archaeological resources requires a permit. If issued, applicants are granted the sole right to remove or salvage the resources in question for a period of one year.

Activities are undertaken under the general supervision of the Board in accordance with its rules and regulations so that the maximum amount of historical,

scientific, archaeological, and educational information may be recovered, reported, and preserved. The director of the Board may require that a permittee must work under the direction of a qualified expert designated by the Board. Permittees are entitled to 75 percent of the value of recovered archaeological resources, with the remainder paid to the state, though the state and private museums within the state have the first option to purchase the remainder of the recovered resources within six months at fair market value. An applicant or permittee may request a public hearing from the Board on the granting or renewal of a permit, the subcontracting of permit rights or the disposition of recovered resources.

In order to protect sites of particular importance, the director of the Board is charged with maintaining a list of resources designated as underwater archaeological preserves in which access is only authorized for recreational, historical, and scientific purposes. No permits except for historical and scientific purposes may be issued and all materials collected through such activities remain the property of the state. Here too a public hearing may be requested of the Board regarding the designation of underwater archaeological preserves. A list of previously discovered, commonly known, or salvaged underwater archaeological resources and their location shall also be maintained by the director of the Board and shall be exempt from the preceding permit requirements. In the case of violations, they are classified as misdemeanors and are punishable with a fine of no more than \$1,000 or imprisonment for six months, or both, and forfeiture of any illicitly recovered underwater archaeological resources.

The Code of Massachusetts Regulations, 312 CMR 2.00 specifically addresses Massachusetts Underwater Archaeological Resources. The regulations standardize the procedures for Board administration and for the investigation, exploration, recovery, reporting, and preservation of the state's submerged cultural heritage. According to the regulations, any person who has located a shipwreck or other resources within state submerged lands is required to secure a permit from the Board prior to conducting activities that may disturb the resource. Minimal artifact collection entailing minimal site disruption for the purposes of establishing the existence of an underwater archaeological resource does not require a permit, however. Any other activity requires one of three types of permits, either for reconnaissance, excavation, or special use activities. The first two are self-explanatory. The third category applies to underwater archaeological investigations associated with a project's environmental review and public planning purposes, or other scientific purposes. These are the only permits that are restricted to qualified archaeologists and that expressly state that all resources remain part of the Commonwealth. Interestingly, reconnaissance and excavation permits carry with them exclusivity and the sole use of the granted site, while special use permits do not.

Permit applications are reviewed by the Board in front of the applicant and determinations are made during scheduled public meetings. Among the review criteria is the need for evidence that proposed operations are in the public interest. In addition to abiding to certain prescribed archaeological standards, the permittee is required to disseminate results within one year of the project completion. Site supervision may be required in the case of a site of historical or monetary significance, and a project

archaeologist might be required to supervise the work. The disposition of recovered resources may vary according to each project and specific guidelines may be issued by the Board as appropriate before a project's completion date; however the distribution percentage remains fixed at the aforementioned 75 percent to the permittee and 25 percent to the state (either based on physical artifacts or fair market value at the election of the Board). Where the Board elects to claim recovered resources, the selection is to be made on the basis of their unusual, unique, or historic value, endeavoring to respect any stated preferences of the permittee as to their disposition. Resources are only to be disposed of after completion of the project, including excavation, conservation, and publication. In addition, however, to underwater archaeological preserves, the regulations also make note of exempted sites which are deemed to be in the public interest and left in the public domain. This status, as well as the underwater archaeological preserve status may be reversed by the Board if circumstances are deemed to be compelling.

### ***Michigan***

The state of Michigan also established a committee through the Natural Resources And Environmental Protection Act of 1994 (Part 761, Section 324.76101 of Michigan Compiled Laws) to provide advice to the Department of Environmental Quality and the Department of History, Arts and Libraries in managing the state's submerged cultural resources. Effective October 1, 2009, however, the latter of the two departments has been abolished through Executive Order No. 2009-36 and the committee, entitled the

Underwater Salvage and Preserve Committee, was transferred exclusively to the Department of Natural Resources. Historic preservation duties were reassigned to the Michigan State Housing Development Authority, where the Office of the State Archaeologist was also placed. The Department of Underwater Preserves, which manages twelve preserves that cover nearly 2,700 square miles of bottomlands, remained within the Department of Environmental Quality (State of Michigan 2012; State of Michigan Executive Order 2009-36: Abolishing the Department of History). This has created a framework through which three state agencies and NOAA co-manage the state's underwater cultural resources.

Returning to the state's legal mandate, the Underwater Salvage and Preserve Committee is composed of representatives from state agencies and members of the public appointed by the governor with the consent of the senate. Appointed members serve for 3-year terms, but the chair of the committee alternates between the state representatives. Its primary duties, beyond serving as an advisory body, include making recommendations with regard to the creation and boundaries of Great Lakes underwater preserves, reviewing applications for underwater salvage permits and making recommendations regarding issuance, assessing permit fees, and considering the promulgation of relevant rules, legislation, and program operation procedures.

The state defines *abandoned property* as aircraft, watercraft, associated equipment, personal property of passengers, and cargo which have been deserted, relinquished, cast away, or left behind and for which attempts at reclamation have been abandoned by owners and insurers. This distinguishes Michigan from most other states

which impart some sort of temporal boundary to the definition. Furthermore, abandoned property also includes materials resulting from activities of historic and prehistoric Native Americans. The other term that requires definition is *Great Lakes bottomlands preserves* which as implied means an area located on the bottomlands of the Great Lakes extending upward to and including the surface of the water which is delineated for special protection of abandoned property of historical value, or ecological, educational, geological, or scenic features or formations. A preserve may encompass as little as a single object, feature, or formation, or a collection of several of the aforementioned. They may even be established by emergency rule if it is determined necessary to immediately protect an object or area of historical or recreational value. Otherwise, preserves must include a single watercraft of significant historical value, two or more abandoned watercraft, or other features of archaeological, historical, recreational, geological, or environmental significance. It is clear from this synopsis that cultural resources take precedence throughout the legislation when it comes to establishing preserves. They are limited to no more than 400 square miles and in total may encompass no more than 10 percent of the Great Lakes bottomlands within the state. Limitations do not apply, however, to the Thunder Bay Great Lakes bottomland preserve, which is also established as a national marine sanctuary. This is noteworthy as currently there is an effort to expand the sanctuary boundaries nine-fold from 448 square miles to 4085 square miles, in the process likely doubling the number of shipwrecks afforded protection (National Marine Sanctuary Foundation 2011). Resources within this particular marine protected area are co-managed and regulated by the state and federal



agencies, although title of abandoned property of historical or recreational value remains with the state. Overall, no permits may be granted within preserves to recover abandoned artifacts except for historical or scientific purposes or when activities carry no adverse effects.

As per Section 76107, no person may recover, alter, or destroy abandoned property located in, on, under, or over bottomlands of the Great Lakes without a permit or in most instances remove, convey, mutilate, or deface human remains located on state bottomlands. There is a series of escalating fines and imprisonment periods that vary depending on the value of the property affected by violations of the permitting provision that extends up to 10 years or a fine of not more than \$15,000 or 3 times the value of the property, whichever is greater, or both imprisonment and fine. Furthermore, the vessel or equipment used during the course of the violation may be confiscated. If one does proceed to recover abandoned property without a permit when one is required, the property is to be turned in to the authorities. In cases where abandoned property lies outside preserves, no permit is required if the property may be recovered by hand and is not attached to, nor located on, in, or in the immediate vicinity of and associated with a sunken aircraft or watercraft. In most cases a report to the authorities is required within 30 days of removal at which point a determination is made whether the recovered property has historical value, in which case it is retained by the state, or otherwise is released to the person who recovered it.

When permit applications are required, as in cases of cargo recovery associated with abandoned watercraft located outside of preserves, certain conditions may be

imposed upon the applicants. The state may also request “other information” that it considers necessary in evaluating a permit request. These provisions enable the state to exert some flexibility in its assessments, as being or collaborating with a professional archaeologist or following archaeological standards are not among the requirements for a successful permit application. The conditions, however, may dictate that the recovered abandoned property to be protected and preserved, enable reasonable public access after recovery, and prohibit or limit the amount of possible pollutants such as floating timbers, planking, and other debris which may emanate from the shipwreck, plane wreck, or salvage equipment. While this latter provision seems to indicate an expectation of recoveries that do not necessarily adhere to archaeological standards, permits holders may be required to submit a specific removal plan that includes means to prevent, minimize, or mitigate potential adverse effects upon the abandoned property to be removed, in addition to surrounding geographic features.

As per Section 76109, if the abandoned property under consideration has substantial recreational value in itself or in conjunction with other sites in the vicinity, the state may deny a permit application. At the same time, if the property has substantial historical value, permits may be predicated upon requiring the permittee to turn over recovered property to the state for the purposes of preserving the property and promoting public access. In such cases, the state may provide for payment of salvage costs in connection with the recovery. This provision implies that, in other cases, permittees are entitled to retain recovered abandoned property, something discussed in Sections 76109 and 76110. In fact, only the person who first discovers an abandoned watercraft may

apply for a permit during the first 90 days after its recovery, a provision likely predicated on a “finders keepers” approach. The state is to be notified within 10 days of the permitted recovery of abandoned property at which point it has a period of 90 days to examine the finds, during which time the recovered property may not leave the state. If it is deemed that the recovered abandoned property does not have historical value, it is released to the person holding the permit.

### ***Minnesota***

The nearby state of Minnesota has followed an altogether different approach reserving for itself the exclusive right to conduct field archaeology on state sites, as is expressed in Minnesota Statutes Chapter 138 dedicated to historical societies, sites, archives, archaeology, and folklife (Minnesota Field Archaeology Act of 1963). In fact, as a statement of legislative intent, field archaeology on privately owned lands is discouraged except in accordance with certain provisions of the Chapter. Persons aware of the location of archaeological sites are encouraged to convey that information to the state archaeologist. A re-organization in 1996 under Executive Order (reorganization order 175) founded the Minnesota Office of the State Archaeologist under the Department of Administration. The state agency is responsible for managing archaeological resources, sponsoring, conducting and directing field research, licensing, and providing data management, consultation, and public outreach services (The Minnesota Office of the State Archaeologist 2012).

No persons other than the state archaeologist and individuals licensed (or issued permits) may engage in any field archaeology on any state sites. The latter consist of land or water areas, owned or leased by or subject to the paramount right of the state, county, township, or municipality where there are objects or other evidence of archaeological interest. With the exception of certain types of artifacts, such as bottles or ceramics manufactured after 1875, this is a very broad definition of archaeological sites that fully encompasses water sites on equal footing with land sites. Field archaeology is equally broadly defined to mean the study of traces of human culture at any land or water site by means of surveying, digging, sampling, excavating, removing objects, or even going to a site with the intent to engage in such activities. The attorney general, upon recommendation of the director of the Minnesota Historical Society, may apply to the district court for injunctive relief to restrain activities deemed as potentially damaging to historical or archaeological sites on public lands or waters (Section 138.36).

As per Section 138.36, the director of the Minnesota Historical Society may also issue a license to a qualified person approved by the state archaeologist to engage in field archaeology on a specific state site or to engage in preliminary or exploratory activities in a specified area where a site is thought to exist (Minnesota Historical Society 2012). Qualified professional archaeologists are defined as meeting the Secretary of the Interior's professional qualification standards (36 C.F.R. 61), while archaeological methods as those scientific procedures used in field archaeology by recognized professional authorities on archaeology. There is a separate provision dedicated to issuing licenses to nonresident agencies from other states such as

universities or scientific groups (e.g., museums, state agencies, foundations) with the professional standing and facilities to display, study, and preserve artifacts. In such cases, the Minnesota Historical Society's director, together with the state archaeologist determine the disposition of the objects found at the time a license is issued.

On the matter of the disposition and acquisition of objects, the state is permitted to barter one or more objects belonging to the state for one or more objects belonging to another state, a private person, or any school or scientific institution. The state archaeologist, with the approval of the Minnesota Historical Society, may dispose of one or more objects belonging to the state. The state may not, however, sell such objects, although it may accept gifts of funds, objects, data, or any deed to a privately owned site.

### *Mississippi*

With the Antiquities Law of Mississippi passed in 1970 and subsequently amended in 1983 (Antiquities Law of Mississippi), The state of Mississippi adopted a number of policies similar to those of Minnesota. Codified in Title 39, Chapter 7 of the Mississippi Code, the law establishes that it is in the public interest to locate, protect, and preserve all sites, objects, buildings, shipwrecks, and locations of historical, archaeological, and architectural significance located in, on, or under any of the lands, tidelands, submerged lands, and bed of the sea within the jurisdiction of the state. Sunken or abandoned ships and wrecks of the sea or any part of the contents thereof are specifically identified among the extensive list of historic properties which fall under the policy declaration

clause (Section 39-7-3). Mississippi's Department of Archives and History is charged with administering the statute (Mississippi Department of Archives and History 2012).

Section 39-7-9 is dedicated to shipwrecks and buried treasure. All sunken or abandoned ships and wrecks of the sea, their contents, and all treasure imbedded in the earth, located in, on, or under the surface of lands belonging to the state, tidelands, submerged lands, the beds of rivers, and the sea within the state's jurisdiction are declared as Mississippi landmarks and the sole property of the state. These landmarks, the section continues, may not be taken, altered, damaged, destroyed, salvaged, or excavated without a contract or permit issued by the Board of Trustees of the Department of Archives and History.

When such contracts are discussed in Section 39-7-13, there is a change in the order resources are mentioned and the terminology favors salvage to research. Here, the board is granted authorization to enter into contracts with other state agencies and with qualified private institutions, corporations, or individuals for the discovery and salvage of treasure imbedded in the earth, sunken or abandoned ships or wrecks of the sea, parts thereof and their contents. Contracts are approved by the attorney general and may provide for fair compensation to the salvager in terms of either a percentage of the reasonable cash value of the recovered objects (as determined by expert appraisal), or of a fair share of the objects themselves (as determined by the Board). The state maintains title to all recovered objects unless title is released to the salvager or permittee by the Board. The Board is also authorized to conduct surveys to identify Mississippi landmarks within state jurisdiction and excavate or study such landmarks. When it

comes to private property, the Board may also survey and excavate historic, architectural, or archaeological sites; however, landowner consent is a prerequisite (written consent in the case of excavations).

Section 39-7-19 is dedicated to permits authorizing certain prescribed activities on, at, or in Mississippi landmarks. State agencies, qualified private institutions, companies, or individuals require permission prior to undertaking activities that include the taking, salvaging, excavating, restoring, or conducting scientific or educational studies. Permits may also provide for the retaining by the permittee of a portion of any recovery following the same provisions that apply to contracts. The main clarifying provision distinguishing the two is that in the case of permits, the proposed activity must be deemed by the Board to be in the best interest of the state. In both instances, that of contracts and permits, violation of incorporated stipulations is considered a prohibited activity.

### *New Jersey*

Management authority for New Jersey's underwater archaeological sites is distributed among a number of state agencies and dispersed across the New Jersey Statutes Annotated. The Statutes contain the state's historic preservation laws and incorporate the establishment of the New Jersey Historic Trust and its Board of Trustees, the New Jersey Register of Historic Places, and the Historic Sites Council (Sections 13:1B-15.110, Section 13:1B-15.128, 13:1B-15.111).

When it comes to archaeological findings, Section 12:1L-10 states that no person is allowed to alter, deface, destroy, disturb, or remove them from state parks or forest property without the written permission of the New Jersey Department of Environmental Protection which houses the state's Historic Preservation Office (New Jersey Department of Environmental Protection 2012). The sale, transfer, exchange, transport, purchase of archaeological findings, or offer to engage in such activities is prohibited without written permission. In addition to fines, any archaeological finding obtained as a result of a violation is subject to confiscation and to be deposited with the New Jersey State Museum (Section 13:1L-23).

More recently, New Jersey passed P.L. 2004, Chapter 170, entitled *An Act Protecting New Jersey's Publicly Owned Heritage*. The Act supplemented a number of Titles in the Statutes, including certain of the provisions mentioned above. The Chapter's preamble makes it clear that the state has recently suffered extensively from illicit pillaging of archaeological sites and activities undertaken by collectors who generally dig without permission and lack the technical skills needed for scientific research. Archaeological findings are defined as including, but not being limited to relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological, or anthropological nature. In this case, not only does the legal mandate incorporate a wide interpretation of archaeological sites, but extends it to cover objects of a geological or paleontological nature, usually not associated with archaeology.



Archaeological findings on state parks, wildlife management areas, and reservoir lands are protected. In addition, findings located on lands owned by a county, municipality, or any political subdivision thereof, as well as the state's transportation and transit agencies are also protected from disturbance without written permission. The Act, however, makes no specific reference to submerged cultural heritage or to state bottomlands.

For such sites, one must turn to the Coastal Zone Management Rules of the New Jersey Administrative Code (Section 7:7E-1.1). Section 7:7E-3.13 is dedicated to shipwreck and artificial reef habitats. These include all permanently submerged or abandoned remains of vessels, and other structures including but not limited to artificial reefs, anchors, and lost cargo which serve as a special marine habitat or are fragile historic and cultural resources. The section specifically identifies known sites shown on National Ocean Survey Charts and notes that shipwrecks may also be considered historic or archaeological resources, as described in Section 7:7E-3.36. Interestingly, shipwreck and artificial reef habitats may be subject to the marine fish and fisheries rule which may be found in Section 7:7E-8.2. While finfishing, shellfishing and scuba diving are acceptable uses of these habitats, any use, except archaeological research, which would significantly adversely affect the usefulness of these special areas as a fish habitat is prohibited. In what is a unique provision within the sample of states examined in this section, persons conducting archaeological research which significantly affects the usefulness of a shipwreck for fisheries purposes are required to compensate for the loss by the creation of an artificial reef of equal habitat volume.

Historic and archaeological resources, on the other hand, are defined as including objects, structures, shipwrecks, buildings, neighborhoods, districts, and man-made or man-modified features of the landscape and seascape which are either on or eligible for inclusion on the New Jersey Register of Historic Places or the NRHP. This definition is both broad in its scope, current in its application in regards to maritime cultural landscapes, but also distinct in that cultural resources must be eligible for the state register or the NRHP to gain resource status. Development that incorporates historic and archaeological resources in sensitive adaptive reuse is encouraged, whereas construction that detracts from, encroaches upon, damages, or destroys the value of these resources is discouraged. Scientific recording and/or removal of historic or archaeological resources is mandated if proposed development would irreversibly or adversely affect them. Surveys and reports to determine resource eligibility for the New Jersey Register of Historic Places or the NRHP must be conducted by professionals meeting both NPS and New Jersey SHPO qualification standards. New development in undeveloped areas near historic and archaeological resources is conditionally acceptable if the design of the proposed development is compatible with the appearance of the resources to be impacted. In the case of archaeological resources, avoidance and protection is appropriate, while, when this is not feasible or prudent, and the resources are of value solely for the information they contain, archaeological data recovery to mitigate the project is required.

Shipwreck recoveries consistent with the protection of historic values and environmental integrity may be permitted if a number of conditions are met, the first of

which is that the proposed project must be in the public interest. Another provision of interest is that the archaeological knowledge gained will outweigh the loss to future archaeological research and to the public of the preserved shipwreck. Applicants must have professional expertise in underwater archaeology, and artifacts must be recovered in an archaeologically appropriate manner, analyzed, inventoried, and as appropriate preserved, restored, and made accessible to researchers. Overall, the entire project must be undertaken in accordance with Secretary of the Interior's Standards and Guidelines on Archaeology and Historic Preservation and the Abandoned Shipwreck Act Final Guidelines. Citing the latter of the two is uncommon among statutes as the Guidelines are advisory in nature and non-binding.

### *New York*

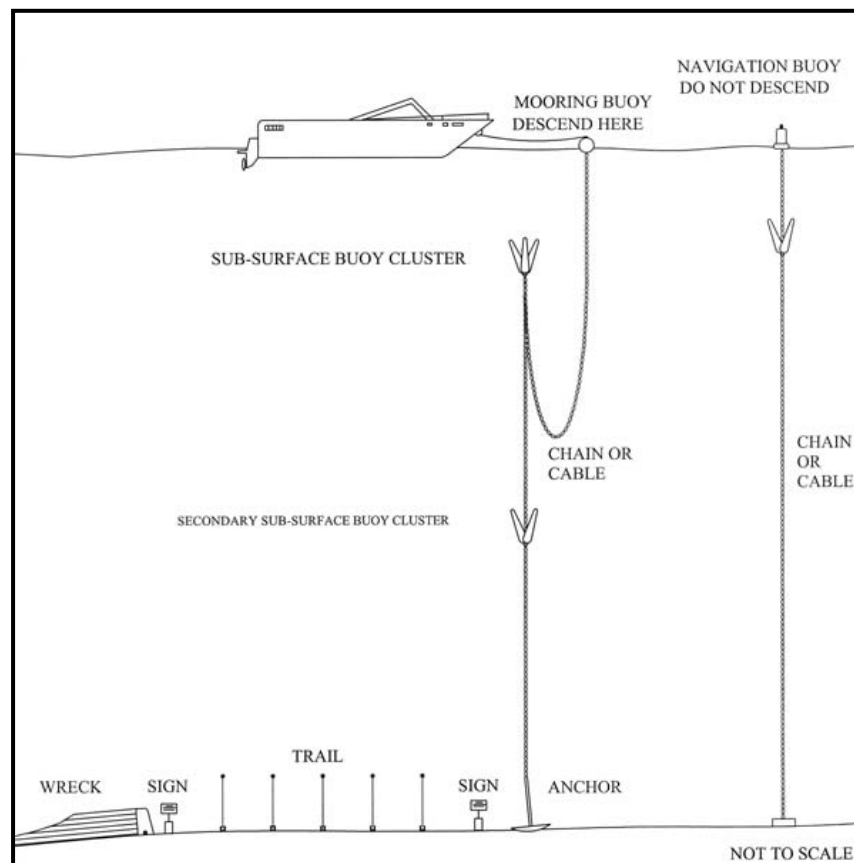
The neighboring state of New York has a fairly complex arrangement for the protection of its maritime heritage resources. Six state agencies work together in addressing the state's underwater archaeological sites (Archeology Program 2009b). The Public Lands Law establishes the Office of General Services as the custodian of state-owned submerged lands and authorizes it to issue land use permits for a number of activities including those that take place within submerged heritage preserves (Laws of New York 2012d; New York State 2012d). At the same time, the Education Law establishes the New York State Museum within the Department of Education and charges it with serving as the state repository for archaeological, historical, and scientific collections. It also institutes a permitting process that authorizes archaeological survey

and excavation on state lands and waterways under the purview of the Office of the State Archaeologist, a staff member of the museum (Laws of New York 2012c; New York State Museum 2012). The Parks, Recreation and Historic Preservation Law, on the other hand, puts in place the responsibilities of the Office of Parks, Recreation and Historic Preservation which administers the state's historic preservation program and archaeological surveys on state lands or waterways. In executing these duties, the New York SHPO has documented almost 1,000 historic shipwrecks in a statewide database established to record information about the resources (Laws of New York 2012b; New York State Office of Parks 2012). Elsewhere, the Environmental Conservation Law addresses the responsibilities of the Department of Environmental Conservation, responsible for preserving and improving the state's natural resources. As part of its duties, the Department manages Lake George's three Submerged Heritage Preserves focused on the *Land Tortoise*, the *Forward*, and the Sunken Fleet of 1758 (Laws of New York 2012a; New York State 2012c). As part of the preserve program's administration, the Department also issues diving, safety and visitation guidelines for the public (New York State 2012a). Figure 7 illustrates a generic mooring plan that is designed to protect the submerged heritage sites for accidental adverse effects caused by increased and unguided visitation.

The Executive Law, with Article 42, frames the Department of State's Division of Coastal Resources program responsible for implementing the CZMA and revitalizing the state's coastal and inland waterway waterfronts (Laws of New York 2012c; New York Department of State 2012a). The Division has an active role in preserving historic

resources, and in particular maritime heritage resources that are not submerged, although in the past it has also supported pilot underwater trail programs (Archeology Program 2009b; New York Department of State 2012b).

Members from each of these six organizations sit on an interagency Ad-hoc Committee for Submerged Natural and Cultural Resources that serves as a forum for



**FIGURE 7.** Lake George's Submerged Heritage Preserves generic mooring plan (after New York State 2012b).

coordinating state agency policy in matters affecting maritime cultural resources. The Committee also reviews permit applications received by the State Museum to conduct archaeological research on shipwreck sites located within state submerged lands (managed by the Office of General Services). While the State Museum issues the permit, the state agency that administers the land on which the proposed activity is to take place on must also grant its approval. The state maintains title to any recovered artifacts associated with a permitted activity which must be preserved according to state policies (Archeology Program 2009b).

### *North Carolina*

North Carolina, on the other hand, has a dedicated Underwater Archaeology Branch within the Office of the State Archaeologist, itself located within North Carolina's Department of Cultural Resources (2011). As per Chapter 121, Article 3 of North Carolina's General Statutes, the Department is the custodian of shipwrecks, vessels, cargoes, tackle, and underwater archaeological artifacts to which the state has title (Section 121-23). Title is extended to all such cultural resources lying on the bottom of navigable waters within one marine league seaward from the Atlantic seashore, or under any other navigable water of the state, assuming the cultural resources have remained unclaimed for more than 10 years (Section 121-22).

The Department is authorized to adopt rules and establish professional staff in order to conduct or supervise the preservation, survey, and archaeological recovery of submerged cultural resources, as well as to issue licenses or permits to conduct any type

of exploration and recovery operation in the course of which part of the archaeological site is removed, displaced, or destroyed (Sections 121-23 to 121-25). In accordance with this mandate, in the past 35 years the Department has documented nearly 1000 underwater archaeological sites, while in the last 20 years it has issued at least 115 permits (North Carolina Department of Cultural Resources 2010b; North Carolina Department of Cultural Resources 2011). Permits are approved if they are deemed to be in the best interest of the state and they may stipulate that a portion or all of the recovered historic material be delivered to the custody and possession of the Department. Permits, however, may also stipulate that a portion of the artifacts may be sold or retained by the permittee, or sold or traded by the Department itself. Although no specific qualification requirements are placed on applicants, the Department may stipulate conditions, something which it has proceeded to do with its published permit applications based on applicable rules located in the North Carolina Administrative Code (07 NCAC 04R.0101, *et seq* (North Carolina Department of Cultural Resources 2009). It is also authorized to charge a fee for the administration of permits, which it is not currently requiring (North Carolina Department of Cultural Resources 2010b). In the final provisions of the statute, one notes an unusual requirement for applicants to consent to a criminal history record check and submit fingerprints for this purpose. Though a criminal history of one or more convictions does not bar the issuance of permits in itself, it is to be factored in to the determination (Section 121-25.1). All law enforcement agencies are empowered to assist the Department, while violations are to be treated and punished as misdemeanors (Sections 121-27 to 121-18).

The aforementioned regulations located in the state's Administrative Code (07 NCAC 04R.1001, *et seq.*) offer additional details as to how the Department has opted to implement its legal mandate. The regulations start by defining abandoned shipwrecks as all sunken ships, boats, and watercraft along with their associated cargoes, tackle and materials and proceed to clarify a second term, *underwater archaeological artifacts*. This much broader category includes materials showing human workmanship or modification and those used or intended to be used or consumed by humans. Specifically, *underwater archaeological artifacts* include relics, monuments, tools, weapons, ceramics, as well as treasure troves and precious materials (Section .1002).

The sole exception to the permit requirement imposed by the statute is for employees of the Department when conducting exploration, recovery, or salvage as part of their official duties. Otherwise, permit applications require applicants to demonstrate adequate funds, equipment and facilities to undertake the proposed operation and maintain supervision of the operation. The activity under consideration must be aimed at furthering archaeological knowledge in the public interest, undertaken through the use of accepted techniques, and any recovered artifacts must be properly conserved and curated, alongside associated records. Unacceptable goals, objectives, or methodologies, and insufficient funding or professional staff are clearly identified as reasons for permit denials (Section .1005).

When it comes to ownership or division of recovered items, underwater archaeological artifacts recovered under the proper permit may be granted, in whole or in part, to the permittee as compensation. The Department, however, acting in the



interest of the state and with fair consideration to the permittee, is the party to determine which of the recovered objects will be surrendered. The terms of the division are to be set out as a percentage with the shares stated on the applicable permit at the time of its issuance (Section .1008). The regulations also include a provision for designating certain areas for sport and hobby operations, wherein short-term sport and hobby permits may be issued. These areas must be specified in writing by the Secretary of the Department of Cultural Resources and those seeking monetary profit from the sale of recovered artifacts are prohibited from applying for such permits. All or any part of the recovered artifacts may be granted to the finder, following inspection and study by the Department.

There are, however, certain abandoned shipwrecks or artifacts of primary scientific, archaeological, or historical value that are designated as protected areas whereby permits may be issued only if the proposed project is consistent with the Department's management plan and all recovered artifacts are kept intact as a collection in an appropriate repository (Section .1009). Such is the case with USS *Huron* Historic Shipwreck Preserve, cooperatively administered by the Department, the Town of Nags Head, and the NHHC (North Carolina Office of State Archaeology 2009). The Department also reviews between 300 to 400 water-related construction projects annually as part of the state's "Section 106" responsibilities, engages in public outreach programs, and has collaborated closely with a number of partners on the prominent Queen Anne's Revenge shipwreck excavation (North Carolina Department of Cultural Resources 2010a; North Carolina Department of Cultural Resources 2010c).

### *Ohio*

Bordering Lake Erie, Ohio has delegated the stewardship of its maritime heritage to two separate agencies, the Ohio Historic Preservation Office which forms part of the Ohio Historical Society (Title 1, Chapter 149, Section 149.30), and the Ohio Department of Natural Resources' Office of Coastal Management (Ohio Department of Natural Resources 2012b; The Ohio Historical Society 2012a). The former of the two maintains an extensive role in guiding archaeological investigations in public lands, archaeological preserves and sites listed in the Ohio Registry of Archaeological Landmarks. It has issued very detailed guidelines pertaining to such investigations throughout the state (Ohio Administrative Code Chapter 149-1-02). The latter is responsible for implementing provisions of the CZMA, and achieves this in part through the Coastal Resources Advisory Council which, at the time of this writing, includes a maritime archaeologist from the Peachman Lake Erie Shipwreck Research Center (Ohio Department of Natural Resources 2012a).

According to the Ohio Revised Code, Title 15, Chapter 1506 (Coastal Management), anyone seeking to recover, alter, salvage, or destroy any abandoned property associated with submerged watercraft or aircraft in Lake Erie requires a permit issued from the Director of Natural Resources which has been approved by the Director of the Ohio Historical Society (Section 1506.32). Applications must include a number of prescribed sections which include information on the resource, the proposed methodology, as well as the proposed disposition of recovered abandoned property. Abandoned property located in Lake Erie but outside a Lake Erie Submerged Lands

Preserve that is not attached to or located on, in, or in the immediate vicinity of and associated with a submerged watercraft or aircraft may be recovered or disturbed without a permit, if undertaken by hand without mechanical assistance.

The Director of Natural Resources receives applications and assesses them, while forwarding copies to the Director of Ohio Historical Society. The latter may approve, disapprove, or conditionally approve permits if the proposed abandoned property has historical value and in doing so may impose certain conditions. The former may also impose conditions if the proposed abandoned property has substantial recreational, ecological, environmental, educational, scenic, or scientific value. Such conditions may include, among others, preservation of the abandoned property once recovered, assurance of public access to the property post recovery, conformity with any policies established in relation to Lake Erie Submerged Lands Preserves, and steps aimed at minimizing adverse effects. Permits may only be issued for abandoned property located within Lake Erie Submerged Lands Preserves (Section 1506.31) if the proposed operation is for historical or scientific purposes or will not adversely affect the historical, cultural, recreational, or ecological integrity of the preserve as a whole.

The Ohio Historical Society maintains an inventory of Ohio shipwrecks, anticipated to grow to almost 600 sites, which it uses as a cultural resource management planning tool for their identification, location, evaluation, nomination, and protection (The Ohio Historical Society 2012b). Section 1506.32 directs the Ohio Historical Society to keep such information confidential, unless the Director of Natural Resources

finds that revealing the location of abandoned property is necessary to protect it or public health, safety and welfare.

The following section (1056.33) discusses ownership of submerged abandoned property in Lake Erie, which is vested in the state. Anyone who recovers or salvages abandoned property without a permit is required to file a written report with the Ohio Historical Society within 30 days if the property is valued at more than \$10 and the property has been abandoned for more than 30 years. The Society must be afforded an opportunity to assess the find and if it has no historical value may release it to the finder. In the case of permitted recoveries, written notification is due to the Society within 10 days, which is in turn afforded 90 days to assess the property following the report. The property may not be removed from the state during this period. If any abandoned property is determined to hold historical value, it may not be released to the permit holder. In the alternative (precluding coins, currency or both), the property may be released to the permit holder, who is required to remit to the treasurer of the state an amount equal to 10 percent of the value of the abandoned property. Half of this payment is directed to the Lake Erie Submerged Lands Preserve fund (Section 1506.35), while the other half funds a program to locate, identify, and evaluate abandoned property in Lake Erie led by the Ohio Historical Society (Title 1, Chapter 149, Section 149.65). If the property is not of historical value, but consists of coins, currency, or both, the Director is to release between 60 to 80 percent of the abandoned property to the permit holder, and direct the remaining value to the aforementioned Ohio Historical Society Program.

### ***Oregon***

On the west coast, Oregon has adopted an approach that treats submerged cultural heritage in a manner similar to its terrestrial counterpart. The Oregon Parks and Recreation Department is responsible for the state's heritage programs and incorporates the State Historic Preservation Office which manages historic and cultural resources, including related archaeological research (Oregon Parks & Recreation Department 2012a; Oregon Parks & Recreation Department 2012b; Oregon Parks & Recreation Department 2012c). Among the most recent projects led by the SHPO involving maritime heritage resources was the recovery of two cannon from Arch Cape attributed to USS *Shark* (Griffin 2008). The SHPO has also issued a report entitled *Guidelines for Conducting Field Archaeology in Oregon* which includes a short but dedicated section to conducting underwater research in the state (Oregon State Historic Preservation Office 2007). The guidelines expressly state that submerged cultural resources, whether canoes, steamboats, schooners, aircraft or prehistoric sites, receive the same level of protection as terrestrial sites (Oregon State Historic Preservation Office 2007: 75).

Chapter 274 of the Oregon Revised Statutes is dedicated to Submersible and Submerged Lands and, although it does not specifically make reference to submerged cultural resources, lays part of the framework upon which heritage laws and regulations are grounded. Also of importance is Section 390.615 which declares the shore of the Pacific Ocean between the ordinary high tide and extreme low tide from the Washington state line to the California state line as vested in the state as a state recreation area (barring portions disposed of prior to July 5, 1947). Therefore, these two provisions

place a large proportion of the lands that could potentially hold maritime heritage resources under the control of the state.

Section 358.635 *et seq.* is dedicated to the preservation of property of historic significance and dictates that any state agency is required to obtain approval from the State Parks and Recreation Department prior to transferring, selling, disposing, or substantially altering any historic artifact, broadly defined as three-dimensional objects which have historic significance (Sections 358.635 and 358.640). Archaeological objects, on the other hand, are defined as being at least 75 years old, part of the physical record of a culture found in the state or waters of the state, and representing the material remains of past human life or activity of archaeological significance (Section 358.905). Archaeological sites, in turn, are defined as geographic localities within the state's jurisdiction, including submerged and submersible lands and the bed of the sea, that contain archaeological objects and the contextual associations of the archaeological objects (Section 358.905). Such objects and sites are declared to be finite, irreplaceable, and nonrenewable cultural resources to be protected and managed in perpetuity but the state as public trust. Accordingly, the subsequent sections deal with prohibited acts, violations, seizures, and civil enforcement (Sections 358.910 to 358.961). Section 390.235 establishes permits and conditions for excavation and removal of archaeological or historical materials from public lands. Permits may be issued to scientific or educational institutions for projects aimed at archaeological or anthropological pursuits, or to qualified archaeologists (subsequently defined) sponsored by a recognized institution of higher learning, private firm, or Indian tribe. With the exception of Indian

human remains and NAGRPA-related objects, archaeological materials remain under the stewardship of the state and are curated by the Oregon State Museum of Anthropology, unless certain other provisions are satisfied. Within Chapter 736 of Oregon's Administrative Rules, Division 51 is dedicated to outlining the archaeological permit process and curation requirements for recovered objects. Successful applications require qualified archaeologists, a research design, and provisions for long-term curation of uncovered archaeological objects. They are assessed by the SHPO and, as applicable, any appropriate Indian tribe or land managing agency, the Commission on Indian Services, the Oregon State Museum, and local government planning departments. Expedited review is possible in certain cases, and a separate process is outlined for archaeological permits that apply to private lands. Overall, submerged cultural resources are incorporated in the same provisions as their terrestrial counterparts and managed in a similar fashion.

### ***Rhode Island***

The state of Rhode Island, on the opposite coast, has followed a similar approach, equating terrestrial and submerged cultural heritage without instituting a separate program for the latter. Chapter 42-45.1 of the General Laws of Rhode Island represents the content of the Antiquities Act of Rhode Island. The purpose of the Chapter specifically identifies that the public has an interest in the identification, interpretation, preservation, and protection of the state's archaeological resources, including underwater historic properties situated under the navigable waters and territorial seas of the state

(Section 42-45.1-2). This integrated approach continues in the definitions of the Chapter where *field investigations* are defined as the study of the traces of human culture at any land or water site by means of surveying, sampling, excavating, or removing surface or subsurface objects. At the same time, however, *underwater historic property* is specifically defined as any shipwreck, vessel, cargo, tackle, or underwater archaeological specimen, including those found at submerged refuse or former habitation sites, which have remained unclaimed for more than 10 years on the bottoms of navigable waters or territorial seas of the state (Section 42-45.1-3). As elsewhere, the state reserves the exclusive right and privilege of field investigation on sites under its ownership and control, and maintains ownership of all information and objects derived from state lands for scientific or public education purposes. In the same section (42-45.1-4), the state proceeds to specifically declare title to and control of all bottoms of navigable waters within the state's jurisdiction in the territorial sea, as well as any underwater historic properties lying on or under the aforementioned bottomlands.

The state's Historical Preservation & Heritage Commission is charged with administering its archaeology and underwater archaeology programs, including setting rules for the issuance of permits, requiring reporting for field investigations, setting provisions for the preservation and display of artifacts, and issuing fair compensation to the permittee for underwater historic properties recovered (Section 42-45.1-5) (State of Rhode Island Historical Preservation & Heritage Commission 2010). The last provision is the only category of rule-making that distinguishes between terrestrial and underwater archaeological sites. Although the law does not stipulate what fair compensation entails,



it is worth noting that title to objects recovered in the course of a permitted field investigation is retained by the state. Upon the recommendation of the Commission covenants and restrictions may be attached to real property transfers that contain significant archaeological or other anthropological resources, in order to limit the future use of such property to protect the resource (Section 42-45.1-8). In the Procedures for Registration and Protection of Historic Properties of the Commission, adopted in 1987, the Commission makes clear that no objects recovered under the authority of any permit may be disposed of by gift, sale, discard or in any other way unless it determines that such action is in the best interest of the state (State of Rhode Island Historical Preservation & Heritage Commission N.d.-d).

The Commission is also charged with publicly designating archaeological sites or underwater historic property as “state archaeological landmarks” and conducting a survey of archaeological and anthropological sites and specimens located within the state (Section 42-45.1-6). More than 2,000 sites have been identified by Commission archaeologists and 100,000 artifacts catalogued and curated in the Commission’s repository (State of Rhode Island Historical Preservation & Heritage Commission N.d.-a). While the Commission maintains files on the location and condition of shipwrecks, and issues permits for their study, it has partnered closely with the Rhode Island Marine Archaeology Project, a non-profit organization that has instructed more than 400 divers on the basic principles of underwater archaeological survey. In this manner, the Commission is executing its mandate to survey for Rhode Island’s underwater historic properties (Rhode Island Marine Archaeology Project 2011; State of Rhode Island

Historical Preservation & Heritage Commission N.d.-b). The Commission has also partnered in the past with the Naval Undersea Warfare Center and the University of Rhode Island Bay Campus in conducting AUV Fest 2008, a public workshop on AUVs in maritime archaeology (State of Rhode Island Historical Preservation & Heritage Commission N.d.-c). Finally, the state agency was also successful in incorporating cultural and historical resources in the Ocean Special Area Management Plan developed by Rhode Island's Coastal Resources Management Council as one of the nation's first marine spatial plans (Rhode Island Coastal Resources Management Council 2010)(Rhode Island Coastal Resources Management Council 2010). Therefore, while the Commission does not maintain an office dedicated exclusively to maritime heritage, it does endeavor to undertake an active role in managing such resources through partnerships. Its integrated approach of managing terrestrial and maritime heritage resources is reflected even in the Commission's staff selection, as in a recent announcement for a Principal Historic Preservation Archaeologist, a description of position duties features Native American, historical, and maritime archaeological resources alongside one another (State of Rhode Island Historical Preservation & Heritage Commission 2011).

### ***South Carolina***

The state of South Carolina has set in place what may be a unique arrangement whereby the South Carolina Institute of Archaeology and Anthropology (SCIAA) serves as both a University of South Carolina research institute and the state's primary agency for the

management of historic and prehistoric archaeological resources(South Carolina Institute of Archaeology and Anthropology 2011). The SCIAA houses both the Office of the State Archaeologist and the State’s Underwater Archaeologist, both of which advise the South Carolina SHPO on archaeological compliance-related activities (South Carolina Institute of Archaeology and Anthropology 2009a; South Carolina Institute of Archaeology and Anthropology 2009b; South Carolina Institute of Archaeology and Anthropology 2010a). The SCIAA also maintains the Statewide Archaeological Site Inventory which includes more than 20,000 archaeological sites (South Carolina Department of Archives & History 2011). In partnership with the SHPO and the Council of South Carolina Professional Archaeologists, the SCIAA has recently updated the state’s standards and guidelines for archaeological investigations (The Council of South Carolina Professional Archaeologists, et al. 2005). The SCIAA’s Maritime Research Division has engaged in archaeological research for decades (including on the *H.L. Hunley* and *CSS Pee Dee* sites), and also undertakes a number of public outreach initiatives (South Carolina Institute of Archaeology and Anthropology 2010b; South Carolina Institute of Archaeology and Anthropology 2010d; South Carolina Institute of Archaeology and Anthropology 2010f).

Whereas the South Carolina Code of Laws maintains a dedicated chapter on shipwrecks and salvage (Section 54-7-1 *et seq.*), SCIAA’s mandate comes from Section 60-13-210 *et seq.* which enumerates its functions and duties. It is from this that the positions of State Archaeologist and State Underwater Archaeologist draw their authority. Specifically, the State Underwater Archaeologist, now located within the

SCIAA's Maritime Research Division, is required to create and maintain a research database of state underwater archaeology sites, collaborate with the SHPO for ensuring the adequacy of all underwater archaeological research and resulting reports carried on in the state, conduct or cause to be conducted underwater archaeological field or laboratory investigations, and oversee the implementation of the South Carolina Underwater Antiquities Act. This Act is one of the few state laws nationwide dedicated to submerged cultural resources, and its current form (Section 54-7-610 *et seq.*) was enacted in 1991, replacing the 1982 version (Section 54-7-450 to 54-7-540) and 1968 version (South Carolina Institute of Archaeology and Anthropology 2010c). Although the Act is extensive, it is important to note that here too the statute does not apply in any manner to the use of privately owned land by its owner or impose any license requirement for any activity conducted on such land (Section 54-7-830).

The extensive Act begins with providing definitions such as that of an "artifact," defined as any object or assemblage of objects found in an archaeological context which yields or is likely to yield information of significance to the scientific study of human prehistory, history, or culture, and has remained unclaimed for more than 50 years (Section 54-7-620). *Historic property*, on the other hand, is much more broadly defined as a district, site, building, structure, or object significant to prehistory, history, upland and underwater archaeology, among other fields, and includes artifacts and records. Specifically addressing maritime heritage resources is the term *submerged archaeological historic property* which includes any site, vessel, structure, object, or remains which both a) yields or is likely to yield information of significance to scientific

study of human prehistory, history, and culture, and b) either is embedded in or on submerged lands and has remained unclaimed for at least 50 years, or is included in or may be eligible for the NRHP. Abandoned shipwrecks, their contents, as well as individual assemblages of historic or prehistoric artifacts are included within the meaning of the term. The extensive set of definitions also addresses commercial applicants, noncommercial applicants, field archaeologists who are required to meet professional qualifications and monitoring archaeologists who oversee activities licensed by the SCIAA.

Section 54-7-630 declares that submerged archaeological historic property located on or recovered from state-owned lands are property of the state and that titles to such property and associated artifacts may be conveyed by the state to a licensee pursuant a license issued by the SCIAA. Licenses are required if such properties are to be removed, displaced, or destroyed and may be granted by the SCIAA if proposed activities are deemed to be in the best interest of the state. The SCIAA may enter into agreements pertaining to the disposition of recovered artifacts with the licensee and whether the division is to be in value or in kind, must afford the licensee reasonable compensation. Sections 54-7-750 and 54-7-770 provide further detail on disposition of artifacts and state that the SCIAA may also retain full title and control of all or a portion of recovered submerged archaeological historic property and may place terms on the disposition such as an option or right of first refusal to purchase from the licensee artifacts that warrant reacquisition, or provide additional compensation to the licensee if, after recovery, the SCIAA elects to retain title to more artifacts than originally provided

in the disposition agreement. The SCIAA may also release the state's title to recovered artifacts if they are not considered to be of a certain scientific, anthropological, historical, recreational, or other public value. For commercial applicants operating under a data recovery license, however, the licensee must receive at least 50 percent of the artifacts recovered in value or in-kind. If the finder of the wreck is other than the licensed salvor, the finder is entitled to 25 percent of the salvor's share (Sections 54-7-770 and 54-7-785).

It is important to note that while non-disturbing inspection of sites, including remote-sensing surveys, do not require any license, there are three separate types of licenses addressed in the statute. The first is hobby licenses, which enable a person to conduct temporary, intermittent, recreational, small scale, noncommercial search, and recovery of submerged resources (Section 54-7-670). These are overseen by the Maritime Research Division's Sport Diver Archaeology Management Program, which also attempts to educate the diving public on archaeological research (South Carolina Institute of Archaeology and Anthropology 2010e). Recovery under a hobby license must be conducted by hand without the aid of mechanical, dredging, or lifting devices, and no more than ten artifacts a day may be recovered from a shipwreck site. The site's integrity may also not be destroyed in the process and removing or moving timbers, fittings, fastenings, or machinery is forbidden. Hobby licenses are issued for a period of either six months or two years, and any artifact collected under such a license must be reported to the SCIAA which then has 60 days to examine the objects and release title to all reported artifacts. This transfer takes place automatically if the SCIAA does not act,

and there is no explicit process by which the state may retain title of these artifacts. The hobby license program replaces the previous instructional hobby licenses and weekend hobby licenses allowing for greater individual accountability and increased opportunity for the SCIAA to review finds (Naylor 2002).

Intensive survey licenses and data recovery licenses may also be issued to applicants proposing to either undertake activities such as delineating the boundaries of a specific location believed to contain submerged archaeological historic property or excavate and disturb such properties. A data recovery license may be issued to an applicant if the applicant has submitted positive results of an intensive survey license for the same location. Of note is the fact that the SCIAA may waive the requirement to obtain a license if the applicant is complying with an undertaking subject to the “Section 106” process. License applications require an extensive research plan which must include a number of prescribed sections, and a series of logs, data, and final reports are due after the fact accounting for the undertaken activities. Exclusive license to excavate a site is predicated on the proposed activity being in the interest of the state and satisfactorily meeting the application standards, while the SCIAA may only issue such licenses to persons seeking to derive income from submerged archaeological historic properties if a series of additional conditions are met (Section 54-7-700). These include clauses such as the property being under imminent threat of destruction or damage by natural or human factors, that the property is not of major archaeological, historical, or other value, that the proposed disturbance will be minor in scale, and that the subject property will not be excavated by any other person in the foreseeable future. The same

preconditions and limitations, however, may also apply to all noncommercial applicants (Section 54-7-700). The SCIAA is required to consider a number of additional criteria in determining whether to issue a license, and may also require a public hearing before making a final decision (Section 54-7-710). If issued, work must be conducted at all times under the immediate supervision of a professional field archaeologist with sufficient training and experience in maritime archaeology to be acceptable to the SCIAA and a monitoring archaeologist may be assigned to ensure the field archaeologist complies with the research designed approved by the institute. In addition, a number of provisions are imposed upon the licensee to ensure archaeological standards are met, human remains are properly handled, and the proper stewardship of sunken warships is assured (Sections 54-7-740, 54-7-750, 54-7-815 and 54-7-820). To afford adequate protection for the interest of the state, the SCIAA may limit the number of licenses granted to those that can be properly supervised, monitored, and administered (Section 54-7-740). Violators of any of the provisions affecting hobby licenses may be fined up to \$50 if found guilty of a misdemeanor, while violators of the terms surrounding the exclusive licenses to utilize submerged archaeological historic property for commercial salvage or income-producing purposes must be punished by a fine not exceeding \$10,000 or imprisonment of not more than one year, or both. In both cases, the SCIAA may revoke the violators' licenses.



*Tennessee*

Tennessee is among the states that have adopted a policy of incorporating (at least a portion of) their submerged cultural resources into existing archaeological resource management programs. As such, the Tennessee Code Annotated, Title 11, Chapter 6, Section 121 is dedicated to abandoned shipwrecks and was enacted pursuant to the passage of the ASA. As per this section, the Division of Archaeology which is located within the Department of Environment & Conservation is responsible for developing a plan regarding significant shipwreck sites in Tennessee, including management strategies for the preservation and conservation of shipwrecks. As part of this effort, the Division is to establish a geographic database and information system that can be used to locate and cross-reference such significant shipwrecks and recognize historical events and geographic locations in the development of river navigation. In order to function, the statute entitles the Division to acquire funds for research purposes and to expend funds through making grants to municipalities, counties, and non-profit organizations to promote its mission.

The Division of Archaeology has therefore incorporated shipwrecks in particular into its programs, though other maritime heritage resources are not explicitly noted. The Division is responsible for surveying the state to identify, research, record, and preserve archaeological sites, as well as to engage in public outreach initiatives. The Asset Management Section is responsible for the protection of archaeological sites and artifacts on all lands owned or controlled by the state, while the Technical Assistance section coordinates with other state agencies and provides them with assistance in the

form of expertise and archaeological surveys. Overall, the Division reviews federal projects to determine their impact on archaeological sites and advises the Tennessee Historical Commission, the state's SHPO, and prepares NHRP nominations (Tennessee Government N.d.-a; Tennessee Government N.d.-c). A state archaeological permit is required by anyone wishing to conduct archaeological work on state-owned or state-managed lands, and, in these cases, all artifacts and records from projects on state lands are not only identified as property of the state, but also assigned to the Division of Archaeology (State of Tennessee N.d.; Tennessee Government N.d.-b). Among other requirements, a detailed research design is required for permit applications to be approved, and amateurs or amateur societies are required to submit information on their consulting professional archaeologist (State of Tennessee N.d.). While the Tennessee SHPO has issued *Standards and Guidelines for Archaeological Resource Management Studies*, there are no provisions contained therein that are directed at archaeological investigations of shipwrecks or other submerged resources (Tennessee Government 2009).

### ***Texas***

The state of Texas stands out in that its Antiquities Code was enacted in 1969 in response to the looting of a sixteenth-century Spanish shipwreck on state-owned submerged lands at Padre Island (Texas Historical Commission N.d.-b). This is one of the earliest statutes pertaining to submerged cultural heritage, and it is noteworthy that it predates the ASA by nearly two decades. In its current iteration, Title 9, Chapter 191 of

the Texas Natural Resources Code, dedicated to the Antiquities Code, sets out to establish public policy in favor of locating, protecting, and preserving all sites, objects, buildings, pre-20<sup>th</sup> century shipwrecks, and locations of historical, archaeological, educational, or scientific interest. Such sites include sunken or abandoned ships and wrecks of the sea or any part of their contents, as well as archaeological sites of every character located in, on, or under any land of the state, inclusive of tidelands, submerged land, and the bed of the sea (Section 191.002).

In particular, Section 191.051 charges the Texas Historical Commission with being the legal custodian of all items recovered and retained by the state in accordance with the statute, directs it to maintain an inventory of such items, designate sites as “state archaeological landmarks,” provide for scientific investigations, issue archaeological permits, engage in public outreach, and preserve the archaeological and historical resources of Texas. Despite recently suffering a significant decrease in its budget, the Commission actively engages in each of these areas, and also serves the state in the role of Texas SHPO (Texas Historical Commission N.d.-a; Wilonsky 2011). As per Section 191.0525, prior to most ground-disturbing activities on public land, responsible parties and state agencies are required to notify the Commission. In turn, the Commission determines whether an archaeological survey or other action is necessary to protect potentially historic sites. The responsible party is also required to seek guidance from the Commission if in the course of a project an archaeological site is encountered. In addition to being vested with the ability to contract agencies, private institutions, and individuals for the discovery or investigation of sites, the Commission is charged with

issuing permits for the survey, excavation, demolition, or restoration of state archaeological landmarks or for the discovery of eligible landmarks on public lands (Sections 191.053 and 191.054). In carrying out its responsibility to curate artifacts, data, and other materials recovered under permit, the Commission is authorized to make arrangements with institutions to serve as repositories or to develop public exhibits (Section 191.058).

An entire subchapter of the Act is dedicated to state archaeological landmarks, and its first section is dedicated primarily to submerged cultural heritage. Accordingly sunken or abandoned pre-20<sup>th</sup> century ships and wrecks of the sea, along with their associated contents and all treasure imbedded in the earth, located in, on, or under state lands (including tidelands, submerged lands, beds of rivers and the sea) are declared the state's archaeological landmarks and are eligible for designation (Section 191.091). The subsequent section (Section 191.092) applies the same declaration to a series of sites, buildings, artifacts, implements, and locations of historical, archaeological, scientific, or educational interest. Landmarks are declared to be the sole property of the state and may not be removed, altered, damaged, destroyed, salvaged, or excavated without a contract or permit (Section 191.093). At the same time, sites located on private land may also be designated landmarks, with written consent from the landowner (Section 191.094). Violating provisions of the Act may result in a misdemeanor conviction, a fine of \$50-\$100 per incident, and imprisonment of no more than 30 days (Section 191.171). These penalties do not preclude civil actions by the state attorney general or by private citizens (Sections 191,172 and 191.173).

The Texas Administrative Code expands upon the roles of the Texas Historical Commission in Title 13, Part 2, which also includes Chapter 28 dedicated to Historic Shipwrecks. Among other things, the Commission is charged with evaluating proposed activities in the state's submerged lands, requiring persons to take measures to avoid damaging known or likely shipwreck sites, protecting non-shipwreck historic or prehistoric cultural resources located within state lands, and designating certain state land tracts as areas of high probability of including the presence of shipwrecks (Section 28.3). Maintained by the Texas General Land Office, these tracts are to be used as guides for the presence or absence of state archaeological landmarks or eligible property within a given tract, although the Commission may require surveys of all areas, regardless of whether or not they are located within high probability tracts (Section 28.4) (Texas General Land Commission 2012). The Chapter also introduces a new definition for shipwrecks, defined as any watercraft or aircraft that is more than 50 years old, including their associated contents. Unlike pre-20<sup>th</sup> century shipwrecks which are de facto considered state archaeological landmarks, later shipwrecks may be designated as such if they meet certain criteria. These criteria require a shipwreck to be located on land owned or controlled by the state, that it be historically significant and over 50 years of age, and that the remains either consist of a sunken or abandoned shipwreck, or are represented by the ship's contents or related embedded treasure (Title 13, Part 2, Chapter 26, Section 26.9).

Other than the high probability land tracts, the Commission may withhold access to information it maintains on the state's shipwrecks database and provide files for

review to a limited number of registered researchers. Section 28.6 is dedicated to the conduct of activities that might affect shipwrecks, setting specific survey requirements and avoidance margins that depend on the region in which operations are conducted. These prescribed parameters include specifications such as survey line spacing and minimum capabilities of equipment (e.g., 300 kHz transceiver on side-scan sonars), but also data processing and presentation methods. Surveys may either be conducted for compliance or research purposes, and requirements imposed by the Commission might vary depending on the objective of the activity. Activities that exceed the authorization specified in survey permits require a separate permit. Three such permits are identified in Title 13, Part 2, Chapter 26, Section 26.20 that pertain specifically to submerged cultural resources – underwater survey permits, underwater test excavation permits, and underwater excavation permits. All need to be conducted under the direct supervision of a qualified archaeologist, conservation of all recovered artifacts is required, and all such artifacts remain property of the state.

The State Marine Archeologist, housed within the Texas Historical Commission is charged with executing the provisions of the legal mandate and responsible for the protection, preservation, and investigation of historic shipwrecks in all state-owned waters. In addition to maintaining a resource inventory, reviewing development projects, and undertaking archaeological research including the impressive excavation of the French explorer La Salle's *La Belle* the office also coordinates with a group of avocational archaeologists designated as Marine Stewards to execute its mission (Texas

Historical Commission N.d.-c; Texas Historical Commission N.d.-d; Texas Historical Commission N.d.-e; Texas Historical Commission N.d.-f).

### ***Vermont***

Vermont is among the states that has embraced an integrated approach to the preservation and the management of its material cultural heritage, whether above or below the waterline. Title 22, Chapter 14 of the Vermont Statutes Annotated is dedicated to Historic Preservation and is in large part dedicated to the duties and authorities of the Vermont Division for Historic Preservation (Vermont Division for Historic Preservation N.d.-a). The State Archeologist is located within the Division, which serves as Vermont's SHPO, and, in fact, at the time of this writing, the State Historic Preservation Officer also holds the office of State Archeologist (Vermont Division for Historic Preservation N.d.-b).

The 1975 Vermont Historic Preservation Act (22 V.S.A. Chapter 14) demonstrates its application to both terrestrial and submerged cultural heritage early on in Section 701 pertaining to terminology. Among them, *field investigations* is defined as the study of human cultural traces either at land or water sites by either surveying or conducting more intrusive activities (or going on a site with that intent). The terms *historic preservation* and *historic property* or *resource* are silent as to their application to the underwater environment; however, the Act specifically defines the term *underwater historic property* which shares virtually the same definition with its counterpart in the Rhode Island mandate. The Act then proceeds to establish the responsibilities and

powers of the Division for Historic Preservation and the creation of an Advisory Council on Historic Preservation that provides guidance and is assigned concrete tasks such as approving nominations to the state and national registers of historic places (Sections 723 and 724).

Section 761 is specifically dedicated to the state archaeologist who is charged with conducting and maintaining a survey of archaeological sites and anthropological specimens located within the state. The state archaeologist also maintains confidential information regarding the location of both archaeological sites and underwater historic properties, but may provide this information to qualified individuals, organizations, public agencies and non-profit organizations for research or planning and preservation purposes. As with other states, Vermont reserves the exclusive right of field investigations on sites owned and controlled by the state. Accordingly, all information and objects deriving from state lands are retained as property of that state; this includes information and objects derived from underwater historic properties (Section 762).

Vermont has also adopted the concept of designating “state archaeological landmarks” which are so categorized by the Division so as to require persons wishing to conduct field activities on these sites to secure a permit from the SHPO. If located on private land, designation of state archaeological landmarks requires the written consent of the landowner (Section 763).

Section 764 is dedicated to exploration permits which may be issued to qualified amateurs or professionals for the purposes of conducting field investigations on state lands or within the boundaries of state archaeological landmarks. The objective of such



research must be the dissemination of knowledge gained and the production of a detailed report on the activities undertaken. Any objects collected under permit remain the permanent property of the state and prior arrangements must be made regarding the curation of such objects, which can be deposited either at an appropriate state institution or placed on loan to qualified institutions in or out of the state. Even when transferring real property that contains archaeological or anthropological resources, the state may place restrictions on the future use of the property in order to protect those resources (Section 765). In the case of underwater historic properties, however, permits may provide for fair compensation to the permittee in terms of a percentage of the reasonable cash value of the objects recovered or a fair share of the objects themselves, to be determined by the state archaeologist. Together with the fact that permitted activities must be carried out in a manner aimed at recovering the maximum amount of historic, scientific, archaeological, and educational information, the authority that rests with the state archaeologist to determine fair shares may restrict the wide application of the compensation provision (Section 782). In fact, the Division is specifically named as the custodian of underwater historic properties, charged with their preservation and protection, and empowered to issue regulations as necessary to achieve these goals (Section 781). The Division has accepted this stewardship role and both included underwater historic properties in its guidelines and regulations, as well as established underwater historic preserves in coordination with partners such as Lake Champlain Maritime Museum (Lake Champlain Maritime Museum N.d.; Vermont Division for Historic Preservation 2002; Vermont Division for Historic Preservation N.d.-c; Vermont

Division for Historic Preservation N.d.-d; Vermont Division for Historic Preservation N.d.-e).

Violators of the aforementioned permitting provisions or those that negatively impact or appropriate archaeological sites within state lands or the boundaries of state archaeological landmarks may be fined no more than \$1000 and imprisoned for no longer than six months. In addition, any specimens, objects, and materials collected and associated records are forfeited to the state.

### ***Washington***

In Washington, the Department of Archaeology and Historic Preservation serves as the state's SHPO and is also the entity responsible for the state's archaeological resources (Washington State Department of Archaeology & Historic Preservation 2012a; Washington State Department of Archaeology & Historic Preservation 2012f). According to the Revised Code of Washington, the discovery, identification, excavation, and study of the state's archaeological resources, their nomination to state and national registers of historic places, maintaining a complete inventory of archaeological sites and collections, and assisting with development impact studies are proper public functions (Section 27.53.020). Hence, and as per Section 43.334.010, the Department maintains a searchable online database of architectural and archaeological records, has developed guidelines which outline the conduct of archaeological survey and inventory processes, regulates permitting involving activities that alter archaeological sites, and ensures that artifacts from public lands are curated in a facility that meets federal standards published

in 36 C.F.R. 79 (Stilson, et al. 2003; Washington State Department of Archaeology & Historic Preservation 2012b; Washington State Department of Archaeology & Historic Preservation 2012c; Washington State Department of Archaeology & Historic Preservation 2012e; Washington State Department of Archaeology & Historic Preservation 2012g).

Chapter 27.53 of the Revised Code of Washington is dedicated to archaeological sites and resources, and addresses both terrestrial and submerged cultural heritage. This is inherent in its defined terminology, including *archaeological sites*, which refer to any geographic locality in the state, including submerged and submersible lands and the sea bed within its jurisdiction which contains archaeological objects. These, in turn, are defined as objects that comprise the physical evidence of a past culture including material remains of past human life such as monuments, symbols, tools, facilities, and technological by-products. The straightforward, clear definitions also extend to the term *archaeology*, which is stated to mean the systematic, scientific study of man's past through material remains. *Historic archaeological resources*, as well as the term *historic* when applied to underwater archaeological resources, mean those resources which are listed or eligible for the state or national register of historic places. Finally, "field investigations" require an on-site inspection by professional archaeologists (or by individuals under their direct supervision), employing archaeological methodologies to identify resources and artifacts, and resulting in a professional archaeological report.

Section 27.53.040 lays the framework of the statute by stating that all objects, structures, artifacts, implements, and locations of prehistorical or archaeological interest

located in, on, or under the surface of any lands or waters under the jurisdiction of the state are declared to be archaeological resources. Any historic archaeological resources abandoned for 30 years or more, including but not limited to ships, aircraft, associated contents, and all treasure trove are furthermore declared to be the property of the state (Section 27.53.045). Whether on public or private land, it is prohibited to knowingly remove, alter, excavate, damage, deface, or destroy any historic or archaeological resource or site, or remove any archaeological object from such a site (with certain exceptions), without a permit from the Department (for permit requirements see Washington Administrative Code Section 25-48-060) (Section 27.53.060). Unlike many other states, Washington requires professional archaeologists to conduct field investigations on privately owned lands, and requires that such investigations be done in accordance with the provisions and spirit of the statute (Section 27.53.070). In the case of public lands, professional archaeologists may perform their duties regarding archaeological resource location and evaluation, including sampling, through coordinating with the land manager. Excavations require a written agreement between the two parties to be filed with the Department. Amateur societies on the other hand are required to gain approval of their activities through submitting a written proposal detailing the scope and duration of the proposed work (Section 27.53.080). Violators may be found guilty of a misdemeanor and in certain cases required not only to pay civil penalties of up to \$5,000 per violation, but also reasonable investigative costs and site restoration costs (Section 27.53.090 and 27.53.095).

For a statute with such preservation-minded provisions, it might be surprising to find significantly weaker clauses pertaining to sites located on state-owned aquatic lands, defined in subsequent regulations as all state-owned tidelands, shorelands, harbor areas, and the beds of navigable waters (Section 25-46-020 of the Washington Administrative Code). To begin with, persons, organizations, or agencies which discover previously unreported historic archaeological resources on state-owned aquatic lands and report the site or location to the Department via a Submerged Historic Archaeological Resource Registration Form are granted right of first refusal to future salvage permits granted for the recovery of that resource (Washington State Department of Archaeology & Historic Preservation 2012d). This right extends for a period of five years, during which if any application is submitted by another party, the original reporting entity has sixty days to submit its own permit application (Section 27.53.100). The Department, in turn, is authorized to enter into contracts with agencies, private institutions, persons, or corporations for the discovery and salvage of state-owned historic archaeological resources. Such resources include ships, aircraft, associated contents, and all treasure trove listed or, in the judgment of the Department, eligible for the state or federal register of historic places (Section 25-46-020 of the Washington Administrative Code). In the case of historic shipwrecks, fair compensation to the salvor is defined as no less than 90 percent of the appraised value of recovered objects, whether in objects or cash, or a combination thereof. The state maintains the right to select which objects it wishes to retain, for up to 10 percent of the appraised value of recovered objects; otherwise, if it chooses not to, it is entitled to receive its share in cash, or a combination of the two. In

another pro-salvor provision, contracts shall provide that title to objects is transferred at the time the permit is issued; only if the salvor fails to fully perform under the terms of the contract does title to all objects recovered revert to the state. Inconsistently, the legal mandate is quite different when it comes to historic aircraft. In such cases, historic aircraft belonging to the state may only be salvaged for a museum, historical society, non-profit organization, or government entity, and title may only be transferred to such entities. The compensation the salvor receives is what is earned through the sale or exchange of the aircraft with the aforementioned entities – no compensation is provided from state funds. In the case of other types of historic archaeological resources, the Department may negotiate terms of such contracts at its discretion (Section 27.53.110). Additionally, following consultation with the Director of Commerce, the Department may enter into agreements, leases, or other conveyances for archaeological activities on state-owned aquatic lands and impose certain conditions to enable it to comply with its legal rights and duties (Section 79.105.600).

The Revised Code of Washington includes certain provisions intended to balance the diminished protection afforded to underwater sites. Any state proceeds are directed to a general fund set up for the purposes of historic preservation and underwater archaeology (Section 27.53.150). The salvor must also agree to mitigate any archaeological damage that occurs during the salvage operation and the Department is entitled to research, document and publish on all recovered artifacts. If a resource would be destroyed beyond mitigation by the proposed salvage operation, the Department maintains the right to refuse a permit application (Section 27.53.120). Finally, the

Department is required to maintain and annually publish a list of areas where permits are required to protect historic archaeological sites located on aquatic lands; it is not clear how this apparently more limited permitting provision interfaces with the blanket requirement for permits imposed in Section 27.53.060. The current version of the Washington Administrative Code, however, only lists three locations where such permitting measures apply to historic archaeological resources on aquatic lands – Lake Washington, Elliott Bay, and Columbia River Bar (Section 25-48-125). A significant portion of the remaining section is dedicated to resolving the interests of competing entities in registering and exploiting the same resource.

### **CHAPTER III**

#### **THE SECTORS OF THE FIELD AS SURVEYED**

The laws and regulations on the international, national, and state level that apply to the preservation of maritime heritage set the framework within which federal and state agencies, academic and non-profit institutions, and cultural resource management firms operate. A review of this complex arena of superimposed and multi-jurisdictional legal mandates was necessary in order to better comprehend the accomplishments and challenges faced by the organizations involved in maritime heritage preservation.

What follows is an analysis of the results of the MHQ discussed in Chapter I, separated into three sections. The first is dedicated to the public sector, which for the purposes of this review represents the combined impressions of federal and state agencies; institutions driven by heritage management responsibilities. The second, which will be referred as the social sector, is dedicated to universities, museums, and non-profit organizations, institutions that are typically dedicated to research and education pursuits. Finally, the third section will be dedicated to the private sector, principally represented by cultural resource management firms or firms that include a cultural resource management division; these are organizations that, in general, meet the compliance-driven need for archaeological survey and assessment. Each of the three sections will present the results of the submitted responses by all members belonging to that sector. Given the relatively small sample size, it is deemed that this sector-based approach will indicate broader trends expressed through respondent organizations. Sub-sector trends



will also be assessed when appropriate given that the needs and responsibilities of the various groups that form the broader sectors are not always identical. As the purpose of this review is to assess the state of the field as a whole, responses will not be assessed on an individual basis.

Each sector review will begin by considering the composition of the respondents assigned to it and then proceed to assess responses submitted to the questions with pre-determined answers, thus providing some quantitative data to consider. Towards the end of the MHQ appear some open-ended questions aimed primarily at challenges and accomplishments perceived by respondent organizations. Responses to these questions will be presented in the form of apparent trends, in an effort to separate sector- or field-level issues from those faced in isolation by one or a small number of organizations.

When reviewing the quantitative data, it is important to consider certain survey and response parameters. In an attempt to accumulate a statistically significant amount of data, respondents were required to provide an answer for nearly every MHQ question in order to be allowed to proceed to its conclusion. However, no measures within the survey software precluded a respondent from selecting more than one answer or fewer than the requested number of answers in the case of multi-part questions. For example, when gauging the efficiency of various means of public outreach (MHQ #18), respondents were asked to assess a number of separate methods independently. An insignificant number of organizations (3) elected to respond in terms of ranges rather than providing a single answer, thereby highlighting that a particular outreach effort was perhaps both occasionally effective and very effective. Where possible, for the purposes

of the assessment below, the answers in these cases were reconciled to reflect the option residing in the middle of the range. More common, however, was for organizations not to respond to each individual portion of a multi-part question. In the example given above, an organization might note that lectures were very effective, but not indicate how effective social media were deemed to be in its outreach efforts. It might be reasonable to assume that such an organization simply does not engage in social media efforts and therefore simply skipped the line item rather select the appropriate option (“Not engaged in ... this initiative”). However, the omission could also represent a simple oversight. Therefore, in such cases the author opted to incorporate only data submitted directly by respondent organizations in the assessment below and not to modify the data set.

Responses to the MHQ represented those of organizations rather than individuals, and organizations were informed that anonymity would be preserved when incorporating their responses into this study. Therefore, as aforementioned, the survey responses collected and presented in Appendix E have been reviewed and, where necessary, modified with the objective of removing all personally identifiable information. Hard brackets ([...]) identify and surround the modified text. Certain terms have also been amended for the sake of clarity (i.e., SCR replaced with “submerged cultural resources,” UCH with “underwater cultural heritage,” and IDIQ with “Indefinite Delivery/Indefinite Quantity”). The only substantial amendment the author made to a survey response pertained to a cultural resource management organization that had erroneously classified itself as a non-profit institution. This modification was made

following a detailed review of the organization's activities and with this sector-based assessment model in mind.

Finally, in considering organizational responses, it became clear that two questions, MHQ #8 and MHQ #9, did not appear self-evident to respondents. The first (MHQ #8) pertained to staffing information and failed to reinforce the clarification that appeared in the beginning of the survey stipulating that in cases of large organizations, responses should reflect the individual organizational unit specifically involved in maritime heritage preservation. The result was that some respondents provided information for their entire organizations, while others for specific organizational units. The data-set was thereby compromised for comparison purposes and for the most part is not addressed in the analysis below. The second question (MHQ #9) requested information on institutional member levels, where applicable, seeking to identify the extent of membership levels among non-profit organizations. Perhaps due to the question's proximity to MHQ #8 and the fact that the survey addressed a wide variety of organizations, a number of respondents indicated instead the total number of staff within their organizations. Consequently, this data-set was also compromised and therefore not addressed in the assessment below. Unfortunately, the potential confusion deriving from these two questions was not identified as an issue by the author or the focus group in advance of launching the MHQ. Responses to both questions have been left unaltered in Appendix E.

## **THE PUBLIC SECTOR: FEDERAL AND STATE AGENCIES**

### *Composition of Respondents*

Twenty-six organizations representing the public sector responded to the MHQ, of which 14 were federal agencies and 12 were state agencies (Table 9). What distinguishes this group of respondents is the multi-faceted role they play in various areas of heritage management, including policy formulation, site stewardship, research, conservation, curation, public education, grants, and supporting compliance archaeology.

The federal agency respondents include representatives from offices across the country belonging to the BOEM, the Department of Defense, the Department of Transportation, the NOAA, and the NPS. The agencies are tasked with managing public lands in addition to natural and cultural resources on behalf of the federal government. While for some respondents preserving and promoting maritime heritage resources falls within their primary mission scope (e.g., NOAA Marine Protected Areas Center, NOAA Maritime Heritage Program, Thunder Bay National Marine Sanctuary, NPS Submerged Resources Center), other agencies preserve heritage resources as part of their duties either as stewards of the resource (e.g., Department of Transportation, the NHHC), or through directing activities on lands they manage (e.g., BOEM). Regardless of the scope of the organization, however, these agencies all maintain one or more offices supported by professionals whose main responsibilities include maritime heritage preservation.

**TABLE 9.** *List of Public Sector Organizations that Responded to the Maritime Heritage Questionnaire*

Category	Organization
Federal Agencies	Bureau of Ocean Energy Management, Gulf of Mexico OCS Region ( <i>Incomplete</i> )
	Bureau of Ocean Energy Management, Pacific OCS Region
	Department of Defense, Joint POW/MIA Accounting Command (JPAC), Central Identification Laboratory
	Department of the Navy, Naval History and Heritage Command, Underwater Archaeology Branch
	National Oceanic and Atmospheric Administration, National Marine Protected Areas Center
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Maritime Heritage Program
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Pacific Islands Region
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Monitor National Marine Sanctuary
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Papahānaumokuākea Marine National Monument
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Stellwagen Bank Sanctuary
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Thunder Bay National Marine Sanctuary
	United States Department of Transportation, Maritime Administration

**TABLE 9.** *Continued*

Category	Organization
	United States National Park Service, Archaeology Program
	United States National Park Service, Submerged Resources Center
State Agencies	Alabama, Alabama Historical Commission
	Alaska, Alaska Office of History and Archaeology
	California, California State Parks, Department of Parks and Recreation
	Florida, Florida Division of Historical Resources, Bureau of Archaeological Research
	Maryland, Maryland Historical Trust, Maryland Maritime Archaeology Program
	Massachusetts, Massachusetts Board of Underwater Archaeological Resources
	Michigan, Michigan Department of Natural Resources
	Minnesota, Minnesota Office of the State Archaeologist
	New York, Office of Parks, Recreation & Historic Preservation, Historic Preservation Field Services Bureau
	Rhode Island, Rhode Island Historical Preservation and Heritage Commission
	Texas, Texas Historical Commission
	Wisconsin, Wisconsin Historical Society, Maritime Preservation

Many of these organizations conduct fieldwork, either to increase our knowledge surrounding submerged cultural resources (e.g., 2011 Battle of the Atlantic Expedition),

meet their “Section 110” obligations (e.g., Channel Islands National Park and Channel Islands National Marine Sanctuary, Golden Gate National Recreation Area, Gulf Of Farallones National Marine Sanctuary and Point Reyes National Seashore, Isle Royale National Park), monitor the condition of particular historic resources (e.g., USS *Cumberland* and CSS *Florida* Survey), or as a result of a combination of the above (e.g., Integrated Investigation of North Point’s Maritime Cultural Heritage) (Delgado and Haller 1989; Lenihan, et al. 1987; Morris and Lima 1996; National Marine Sanctuaries 2011; National Oceanic and Atmospheric Administration 2011w; Thunder Bay National Marine Sanctuary 2007). On occasion, federal agencies have assisted in or undertaken some of the most prominent excavations pertaining to submerged cultural resources such as the recovery of the *H.L. Hunley* and portions of the USS *Monitor* (Monitor National Marine Sanctuary 2009; Naval History & Heritage Command N.d.-b). They often led or are directly involved with the “Section 106” process and issue permits and licenses (e.g., BOEM, NHHHC), as well as provide technical guidelines for archaeological research and mitigation purposes (e.g., Bureau of Ocean Energy Management N.d.-a; Bureau of Ocean Energy Management N.d.-b; Bureau of Ocean Energy Management 2011g; National Oceanic and Atmospheric Administration 2009c; Naval History & Heritage Command N.d.-c; U.S. Department of the Interior 2011d; U.S. Department of the Interior 2005; U.S. Department of the Interior 2006h; U.S. Department of the Interior 2008a). Several of these organizations provide funding for studies to promote a better understanding of or the preservation of historic properties (e.g., BOEM Gulf of Mexico OCS Region, Pacific OCS Region) (Bureau of Ocean Energy Management 2011e;

Bureau of Ocean Energy Management 2011h). Being public institutions, more and more are actively becoming engaged with public outreach initiatives, whether through school curricula (e.g., Monitor National Marine Sanctuary Lesson Plans, the BOEM's Historic Shipwrecks of the Gulf of Mexico), documentaries (e.g., the NOAA's *Project Shiphunt*), artifact loans (e.g., the NHHC's Archaeology & Conservation Laboratory) or internship programs (e.g., the NPS Submerged Resources Center Our World Underwater Scholarship Society) (Monitor National Marine Sanctuary 2012; National Oceanic and Atmospheric Administration 2011v; Naval History & Heritage Command N.d.-a; The Our World-Underwater Scholarship Society 2011; U.S. Department of the Interior 2006g). Jurisdictions at times overlap, as in the case of sunken military craft in national marine sanctuaries or within national parks, or as a result of partnerships such as at Thunder Bay National Marine Sanctuary. In other instances, a federal agency is the sole public authority responsible for ensuring the preservation of historic properties under its purview, as is often the case with the BOEM and shipwrecks on the OCS.

In turn, state agencies also form a geographically diverse group, and include Alaska and California in the West, Texas, Alabama, and Florida along the Gulf of Mexico, Maryland, New York, Rhode Island, and Massachusetts in the East, and Michigan, Wisconsin, and Minnesota in the Great Lakes region. These organizations usually serve as the state SHPOs, such as in the case of Alabama, Rhode Island, or Texas. Some states such as California place heritage agencies within broader departments (Department of Parks and Recreation), while others like Alaska or Wisconsin have instituted stand-alone agencies dedicated to historic preservation and

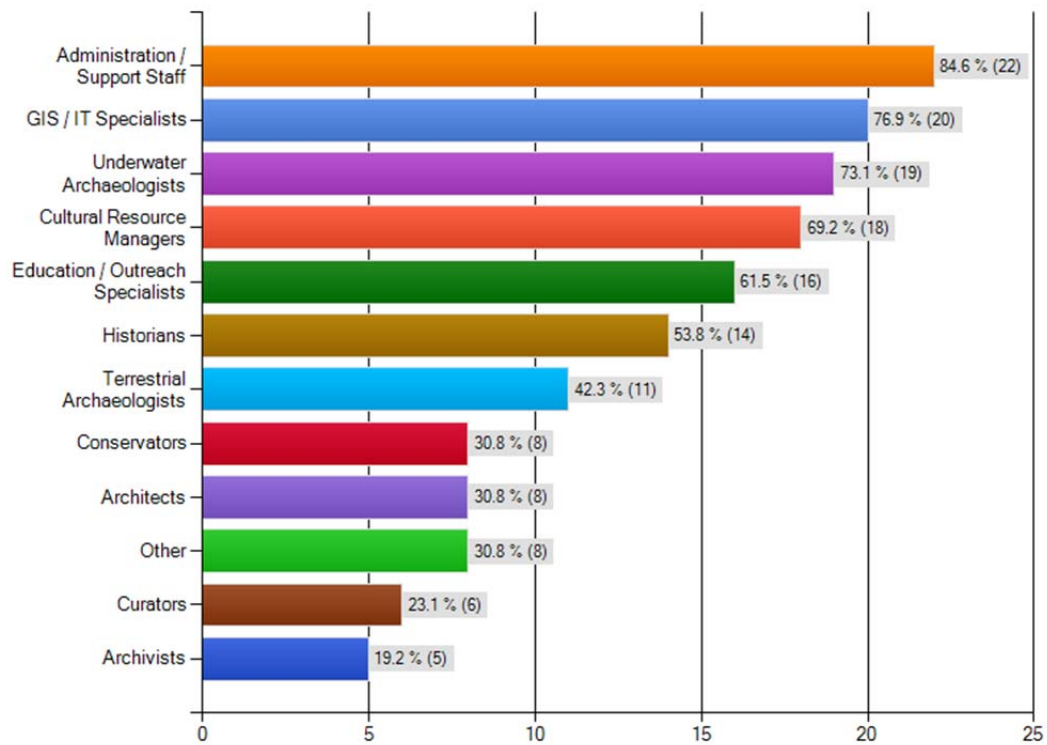


archaeology. State agency respondents have adopted a fairly diverse set of approaches to the management of maritime heritage resources. Massachusetts, for example, turns to the Board of Underwater Archaeological Resources, Alabama and Rhode Island depend on their archaeology divisions that have extended their responsibilities to the maritime element, while Florida, Maryland, and Texas have dedicated state underwater archaeologists and have built programs around them. All in all, as noted above, state agencies provide guidance, ensure state interests are taken into consideration in “Section 106” cases, issue permits, offer grants, undertake and supervise archaeological research, may be responsible for the curation of artifacts recovered from state property, and engage in public outreach initiatives. Shipwreck trails (e.g., Florida), state underwater preserves (e.g., Michigan, New York), and significant projects such as the *La Belle* excavation in Texas have come to fruition due to the efforts of these organizations (Division of Historical Resources 2007; New York State 2012c; State of Michigan 2012; Texas Historical Commission N.d.-d). Many of these state agencies are the primary or only means of preserving maritime heritage resources within their jurisdiction and are responsible for implementing their respective laws.

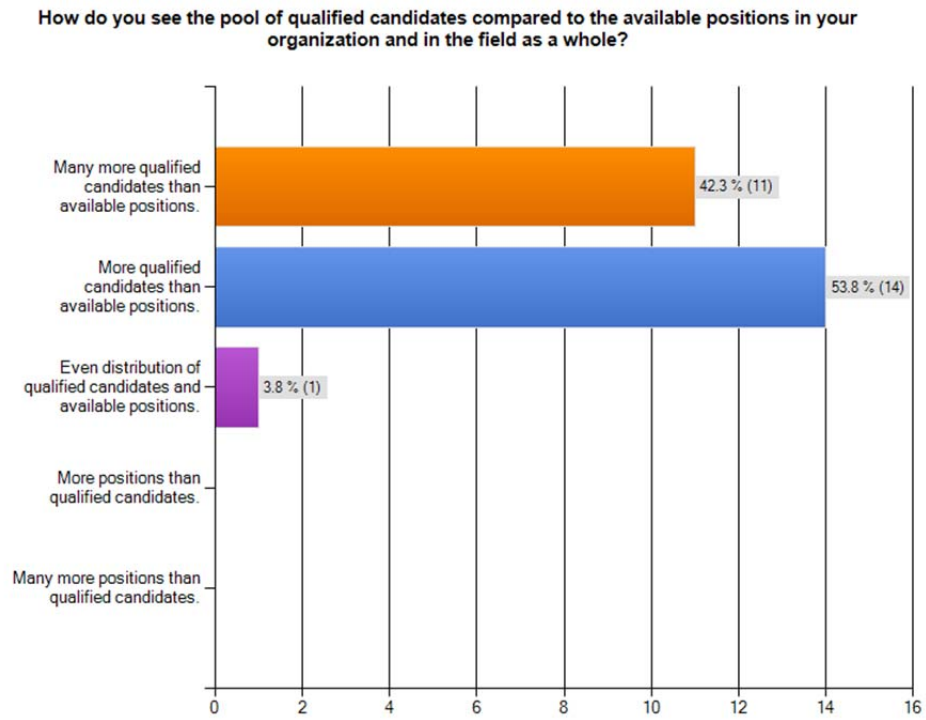
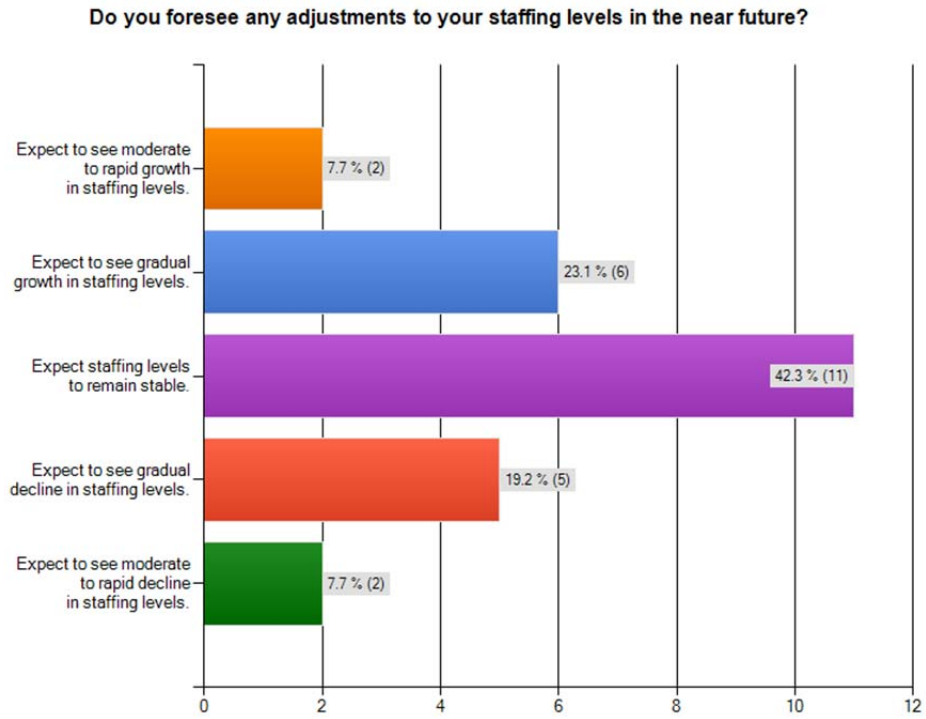
### *Quantitative Data*

The complex and varied missions of public sector respondents are represented in the diversity of skill-sets present within their employees. As can be seen in Figure 8, most of the organizations that responded to the MHQ have underwater archaeologists, cultural resource managers, and public outreach specialists on their staff. Several respondents emphasized the fact that most staff members are expected to undertake multiple roles within the organization (e.g., public outreach was often noted as a secondary duty) or that staff focused on maritime heritage was often complemented and supported by other specialists within the broader organization. In certain cases, experience in maritime heritage matters resided in a sole individual whose presence affects how involved that institution remains in the submerged cultural resources. In a time of tightening budgets, specialists in maritime heritage may perhaps be seen as less mission-critical than some of their colleagues responsible for terrestrial sites.

**What kind of specialists are employed by your organization? Please check all that apply.**



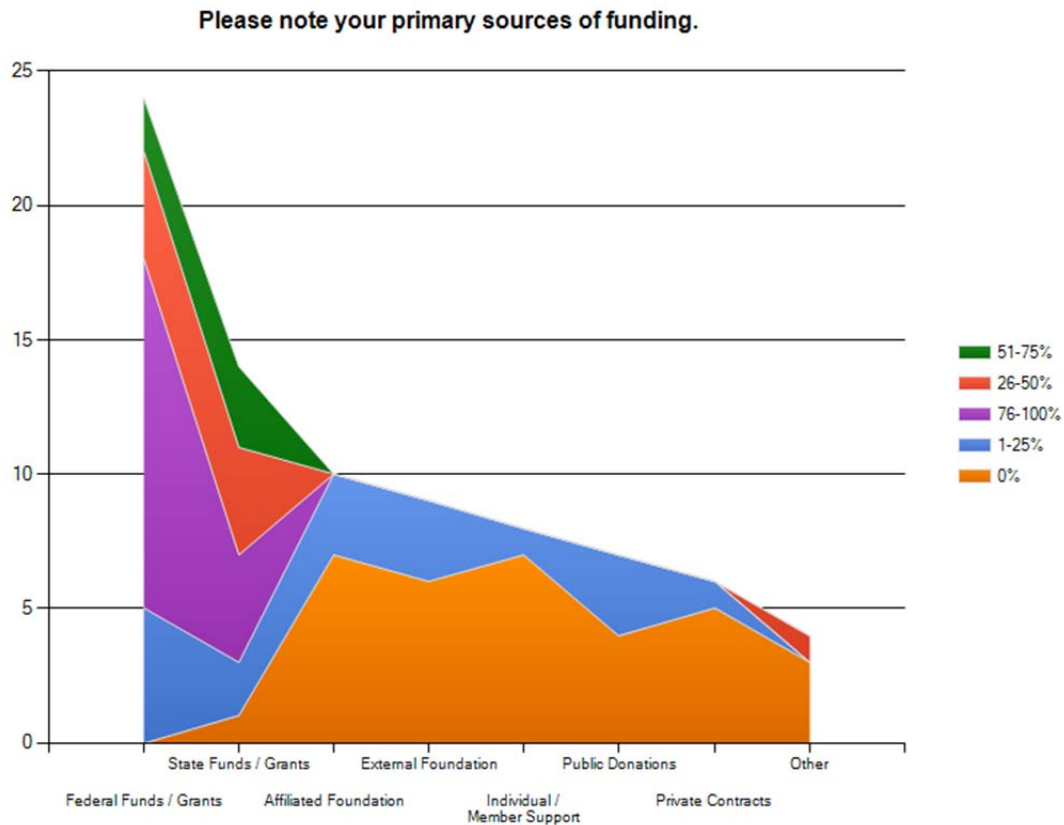
**FIGURE 8.** Series of graphs indicating public sector responses to MHQ questions #10, #11, and #12 pertaining to staff specialties and staff levels within respondent organizations, and the overall balance between available positions and qualified candidates.



**FIGURE 8.** *Continued.*

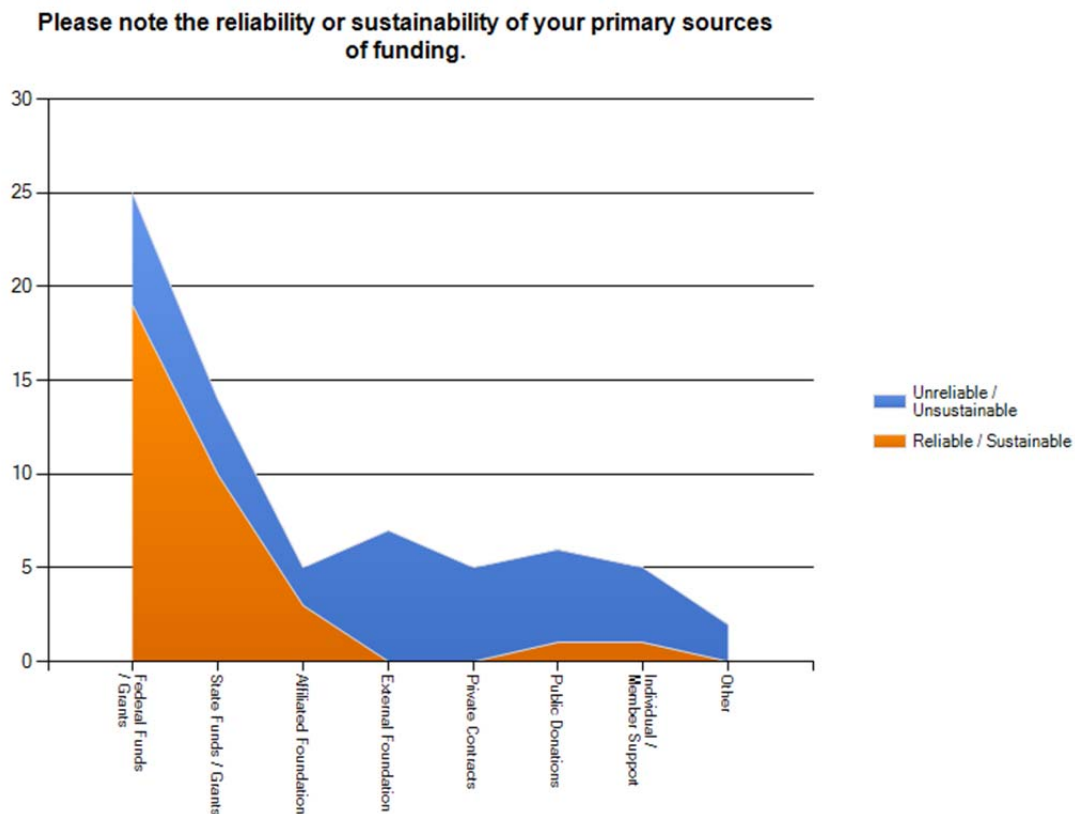
These insights lead to an examination of the expectations that reside within the public sector in regard to staffing. In what represents an almost perfect bell-curve, Figure 8, suggests that the number of positions in the public sector by and large are expected to remain stable, which is a positive fact when taking into account the aforementioned budgetary climate. At the same time, this is somewhat concerning for the growth of the field when considering the fact that the vast majority of respondents expressed the opinion that the pool of qualified candidates is either substantially greater or greater than the available number of positions. Based on expectations, it appears the public sector will not be able to sustain the growing number of new professionals joining the pool of maritime heritage specialists each year. This is particularly the case when considering the lengthy tenures that appear to be common among staff members in the public sector as suggested by an informal review of federal and state organizational websites.

As is perhaps to be expected, federal and state funds appear to be the main source of support for respondents in the public sector (Figure 9). Almost all respondents expressed that they receive some federal funds. Here it is important to note a difference in the funding source of federal agencies, which heavily rely on congressional appropriations, and the more diverse sources of funding sought out by state agencies, which also turn to state funds, public donations, as well as individual member support and affiliated or external foundations. In addition, public sector respondents also mentioned that a portion of their resources stem from historic property visitations and sales from associated gift shops. Overall, federal and state funds rank the highest by far



**FIGURE 9.** Graph indicating public sector responses to MHQ questions #13 pertaining to the primary sources of funding available to respondent organizations.

in reliability, though, notably, approximately a fourth of respondents deemed each source to be unreliable (Figure 10). This impression is also prevalent in comments submitted by respondents to the effect that public funds are either rapidly decreasing or significantly fluctuating from one year to the next. Therefore, while significantly more reliable than other sources of funds, federal or state appropriations do carry with them some uncertainty. The next most reliable source of funds, affiliated foundations, was deemed to be reliable by 60 percent of respondents that rely on this stream of support.

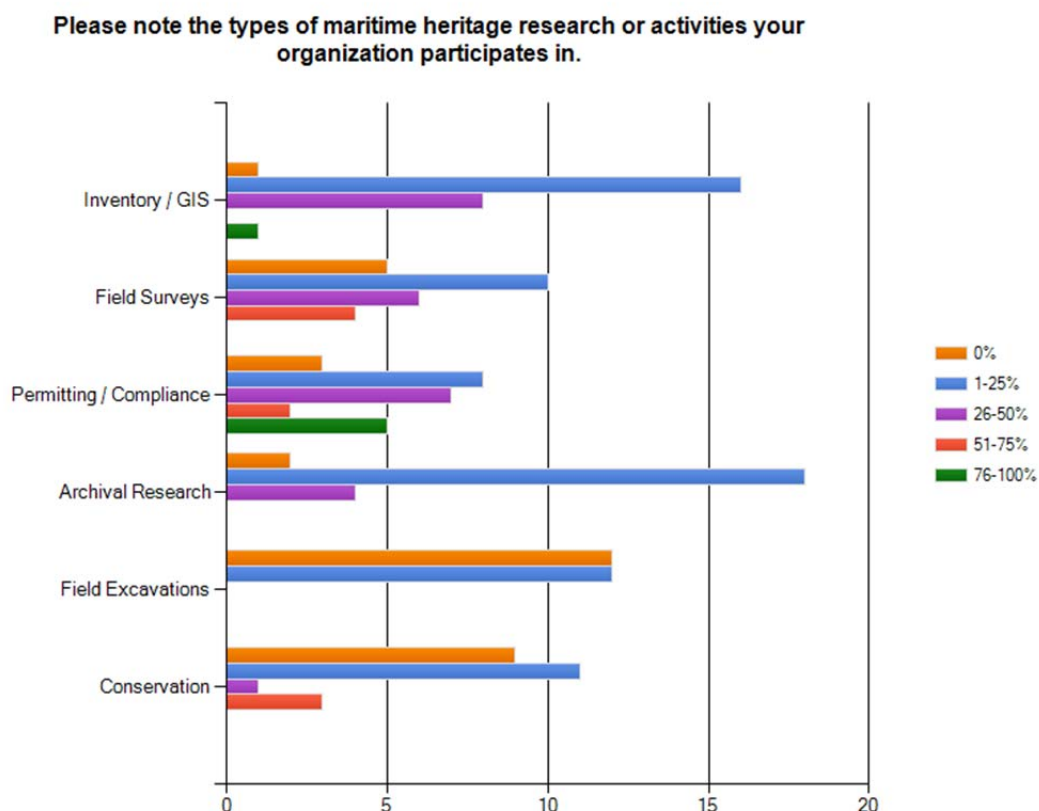


**FIGURE 10.** Graph indicating public sector responses to MHQ questions #14 pertaining to the reliability of funding sources available to respondent organizations.

All respondents who rely in part on external foundations or private contracts deemed these sources to be unreliable, while more than 80 percent of respondents who derive some funds from public donations or member support also characterized this source of income as uncertain.

As expected, the broad mission scope of public organizations requires them to split their time between a number of activities (Figure 11). Almost all organizations dedicate a portion of their time to inventorying cultural resources and developing

Geographic Information Systems. Given their management responsibilities for such resources, this is a basic function of respondent organizations and associated with other functions such as archival research and permitting as evidenced by the large majority of organizations indicating that they invest a degree of effort in these functions. Though a small number of organizations conveyed a lack of engagement with permitting activities, it was by far the most prominent response, with certain organizations dedicating more than three-quarters of their time to this area, and the rest affording significant time to this



**FIGURE 11.** Graph indicating public sector responses to MHQ question #15 pertaining to the scope of research or other activities performed by respondent organizations.

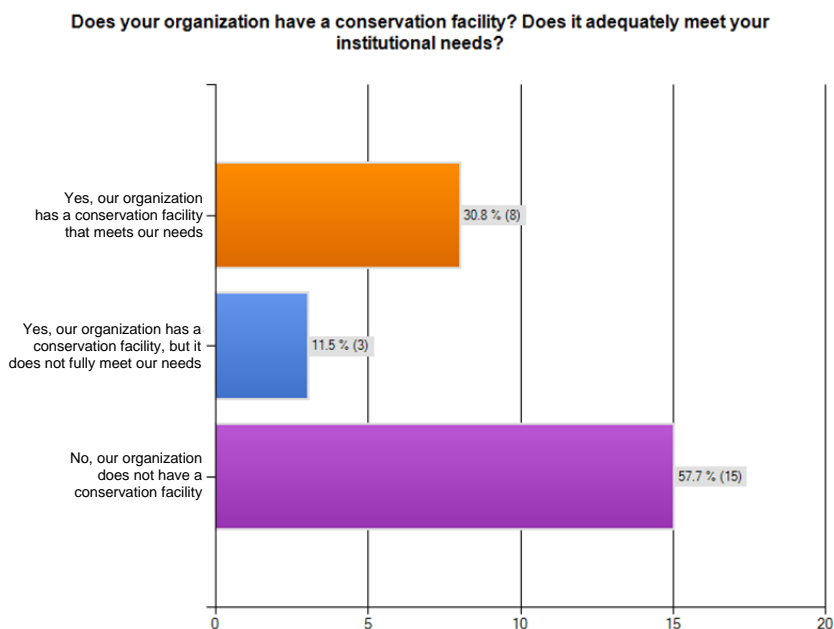


activity. In the case of public sector organizations, this generally reflects the time dedicated to reviewing permit applications, rather than to applying for permits.

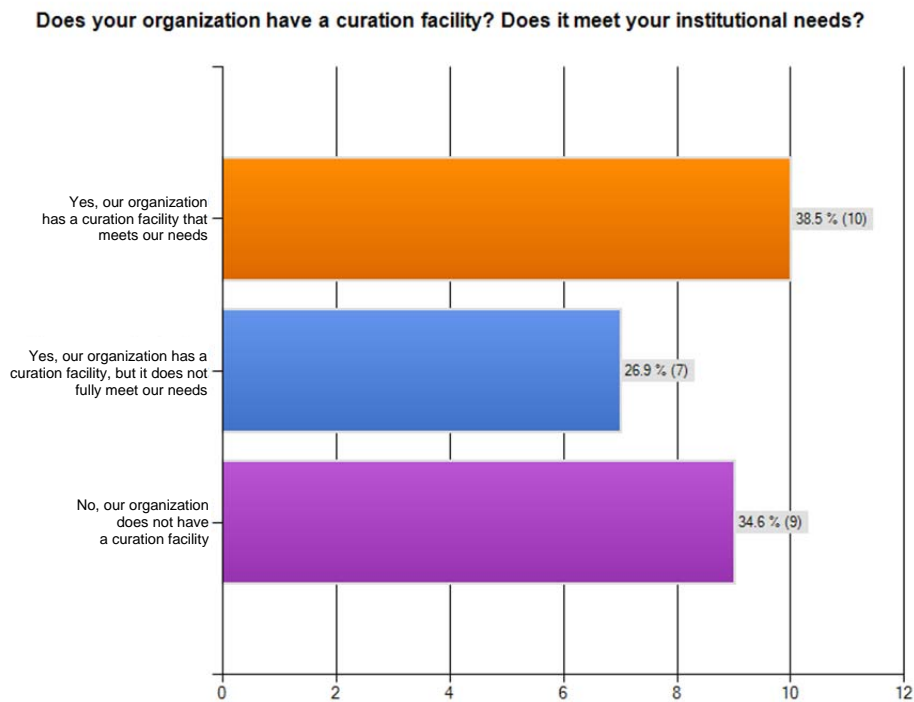
Responses are more mixed when considering how many organizations are directly involved with field surveys and the weight placed on such surveys. Five organizations, for example, do not engage in such operations, while four indicate that field surveys take more than half their time. The remaining respondents suggest that field surveys are an important part of their mission, though to varying degrees. The case is clearer when considering excavations as half of respondents indicated that they do not participate in such projects, while the other half responded that they dedicate less than a quarter of their time to excavations. Although certain organizations indicated that they dedicate significant time to conservation, the overall pattern mirrors that of excavations. This may in part be due to survey error as the term was not defined and could mean stewardship of resources as a whole rather than the physical treatment of recovered artifacts, which was the intended activity. Other activities represented in organizational comments include working on interagency or international agreements for the management of submerged cultural resources and maintaining a grant program to fund historic preservation efforts.

Eleven of the 26 organizations maintain a conservation laboratory, while 17 operate a curation facility (Figure 12). However, these facilities do not always meet agency needs, particularly in the case of curation facilities where this is reported by a quarter of respondents. To complement the smaller number of conservation facilities, respondent comments indicate that in a number of cases conservation is contracted to

other state partners such as the Alaska State Museum, universities such as Texas A&M University, non-profit organizations such as the Mariner’s Museum, or private firms. A number of public sector organizations also noted that they espouse the principle of *in situ* preservation and therefore do not actively engage in artifact recoveries, treatments, or curation. This, naturally, does not apply to the case of illicitly recovered artifacts that form a large portion of the collection under the care of one public sector organization. Certain respondents noted that while conservation expertise is present, the unique nature of maritime heritage resources requires that they turn elsewhere. In another instance, a small conservation laboratory that was maintained had to be closed recently due to budget cuts.



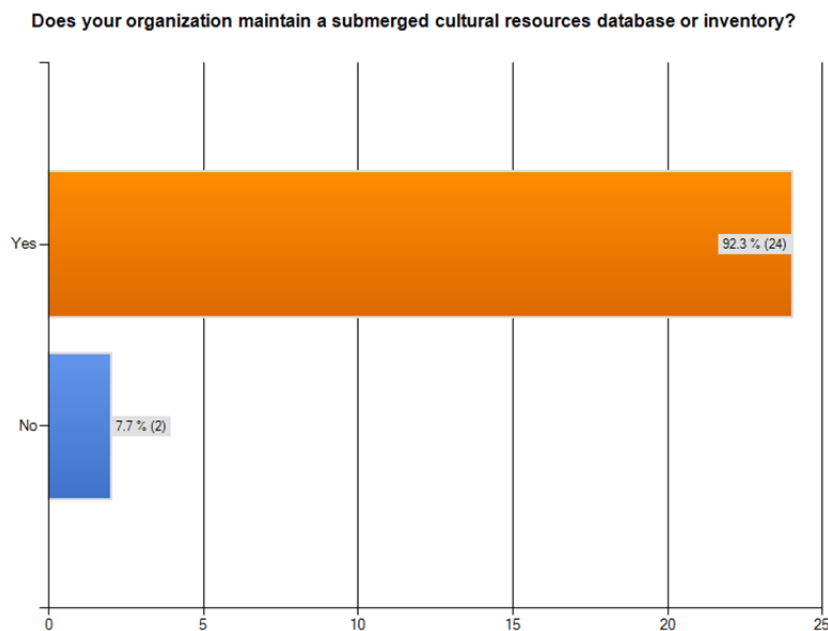
**FIGURE 12.** Series of graphs indicating public sector responses to MHQ questions #16 and #17 pertaining to the maintenance of a conservation or curation facility by respondent organizations.



**FIGURE 12.** *Continued.*

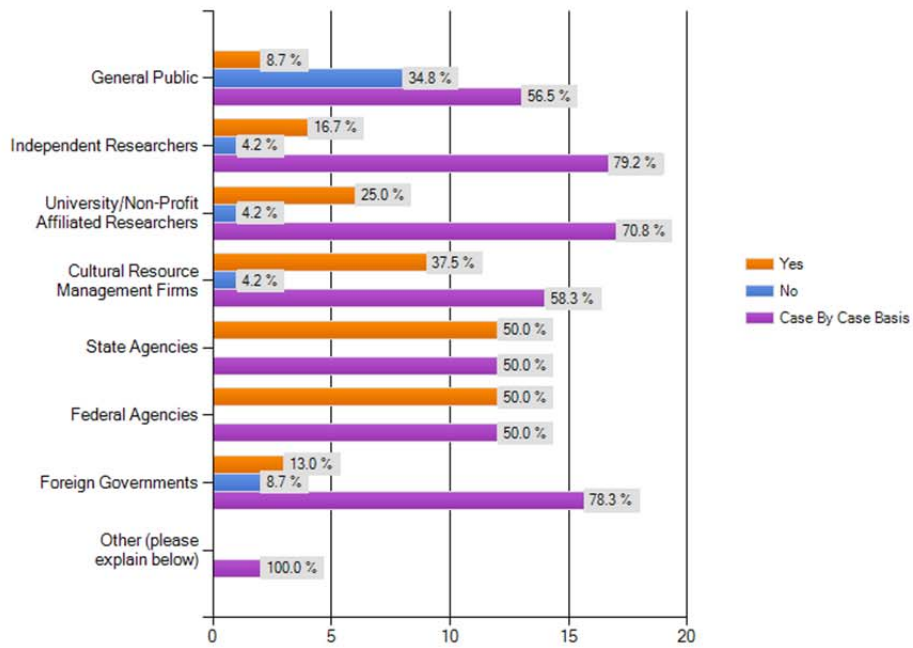
While not all organizations maintain a physical collection, the vast majority, over 90 percent, maintain an inventory of submerged cultural resources that presumably fall under their purview (Figure 13). This is a particularly encouraging indicator of the investment these public sector organizations have made in the management of underwater cultural heritage. It is interesting to note that in compiling their inventories, respondent organizations by a general margin of two to one have turned to independent researchers, universities, non-profit organizations, and other federal and state agencies for assistance. Nearly half have turned to the private sector to enhance or assist with their database development, while nearly a fifth have also included input from foreign

nations. At the same time, when reviewing database access practices, the overwhelming response when interacting with any one of these entities is that data are shared on a case-by-case basis. While no respondent refuses to grant access to other public sector organizations, half only do so on a case-by-case basis rather than as standard practice. This percentage increases to nearly or above three-quarters of cases involving independent researchers or universities and non-profits. At the same time, the general public is not permitted access to databases as a matter of course in nearly a third of instances, a percentage that drops significantly lower for independent researchers.

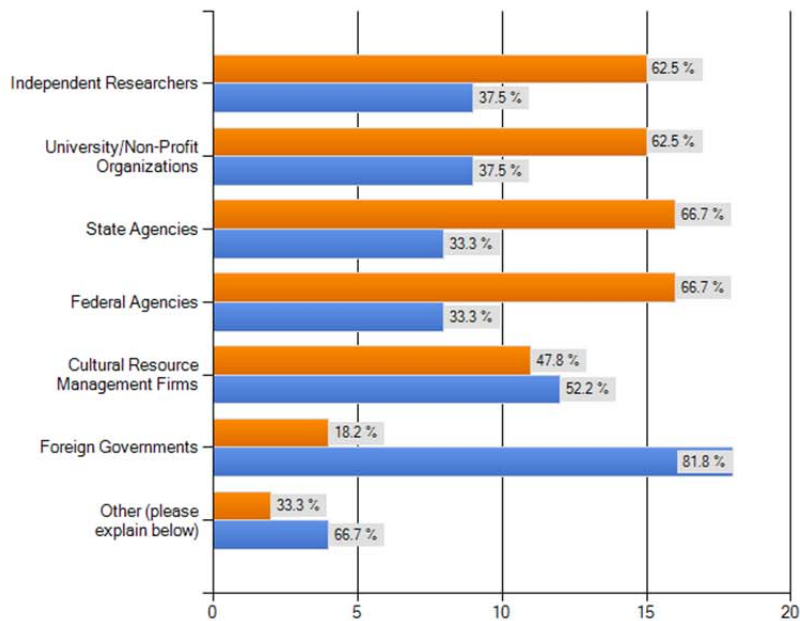


**FIGURE 13.** Series of graphs indicating public sector responses to MHQ questions #19, #20, and #21 pertaining to the maintenance of submerged cultural resource databases by respondent organizations, as well as to their development, and access policies.

**If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**



**If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

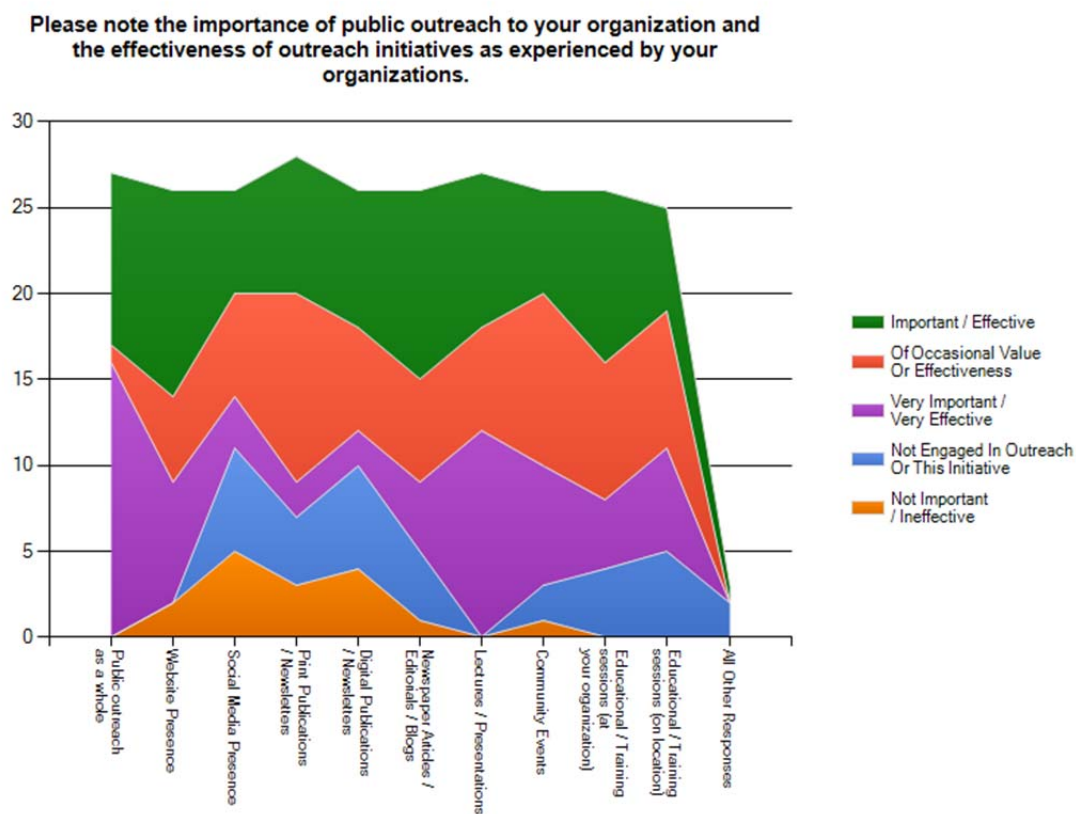


**FIGURE 13.** *Continued.*

The overall results suggest a lack of standardized, or rather formalized, policies when it comes to database access, regardless of the identity of the requesting party. This is likely indicative of the sensitive nature of the data and the impression that each case needs to be assessed on its own merits to establish to what degree data must be shared for the benefit of the resource. As one respondent framed it, the need to access information that is otherwise restricted must be compelling. Other respondents mentioned that information pertaining to sites is protected from disclosure according to state or federal law. The Texas Historical Commission maintains an online database of archaeological sites integrated with its GIS data that requires researchers to apply for registration to the website, requiring them to be vetted by the agency prior to gaining access. The Joint POW/MIA Accounting Command follows a similar practice, prohibiting access to the general public, but allowing certain interested family members associated with POW/MIA recoveries to access information in cases involving their family members.

Public outreach is deemed to be either of great importance or of importance for virtually every public sector organization that participated in the MHQ (Figure 14). More than three-quarters of respondents indicate that their website presence carries the same level of high effectiveness, although the remaining group feels it to be of occasional effectiveness, if that. Social media presence carried much less support with nearly three-quarters of respondents indicating that either they are not engaged in this type of outreach or that it is only occasionally occasional effective. Print publications or newsletters appear on the opposite end of the spectrum, with support mostly ranging from occasionally effective to effective. The same holds true for digital newsletters or

publications, though nearly a quarter of respondents indicated they are not involved in this type of outreach. A much larger percentage of respondents participate in newspaper articles, editorial, or blogs, or at least deem them to be effective, though not as effective as lectures and presentations, which appear to have the greatest support, even exceeding websites in effectiveness. Community events range from being considered highly



**FIGURE 14.** Graph indicating public sector responses to MHQ question #18 pertaining to the importance of public outreach as a whole, as well as the effectiveness of individual public outreach initiatives as viewed by respondent organizations.

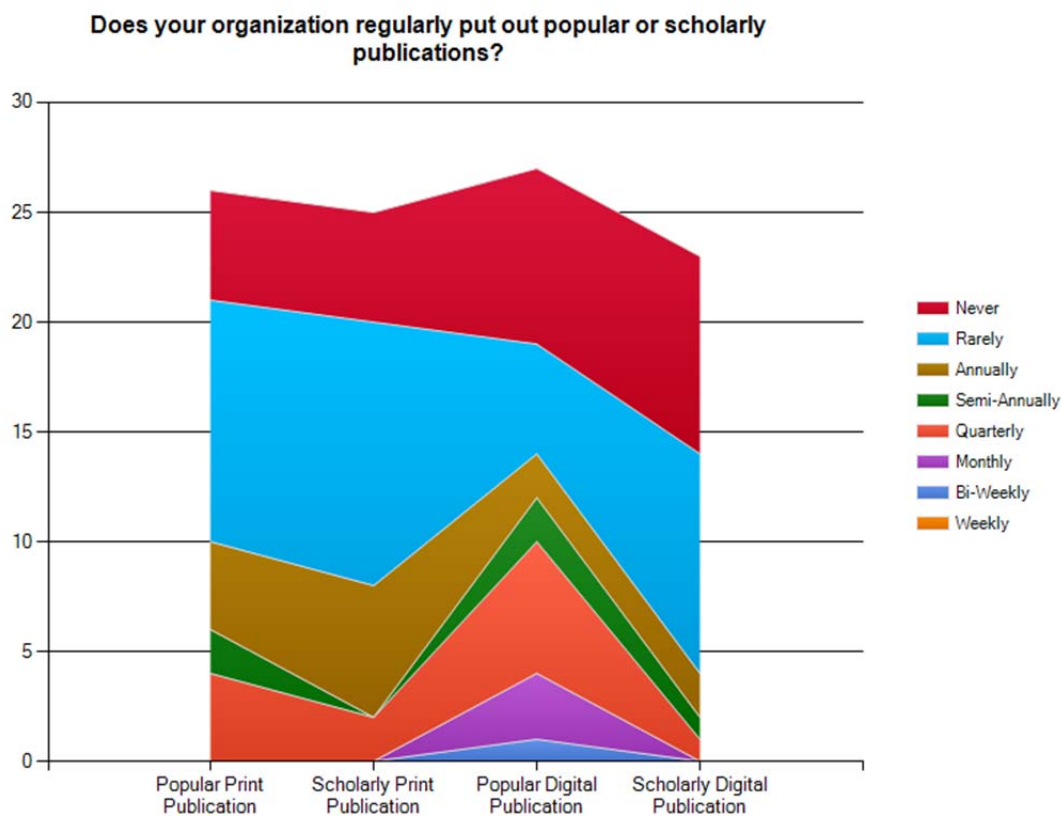
effective to being deemed of occasional value, with more organizations weighing in on the less effective end of the scale. While not all respondents participate in educational or training sessions, those that do find them to range from occasionally effective to highly effective. Several public sector organizations commented on the importance they place on public outreach, though a number also caution that impressions of effectiveness do not always correlate to the results of proper program evaluations. Others observe that several misconceptions continue to exist despite best efforts, and that recent budget cuts have particularly affected outreach initiatives either due to reductions in staff, travel budgets, or marketing programs.

Most public sector organizations rarely put out popular or scholarly print publications of their own, with approximately a fifth issuing them annually, and another fifth not issuing such publications at all (Figure 15). A quarter of respondents do report issuing popular digital publications on a more regular basis, though half of organizations rarely or never do. Scholarly digital publications are even more infrequent with 40 percent of respondents never issuing them, and most issuing them rarely, or annually. In several instances, budget cuts have taken a toll on publications, in one case eliminating a scholarly journal, in another diminishing the number of issues of a popular publication. A number of organizations expressed that they are currently developing new publications ranging from an academic publishing capacity to a popular newsletter. Scholarly publications are also released as studies on websites, while a number of respondents noted that they often publish in external journals rather than their own. It is also important to note that on occasion “rarely” may have been selected as a response in



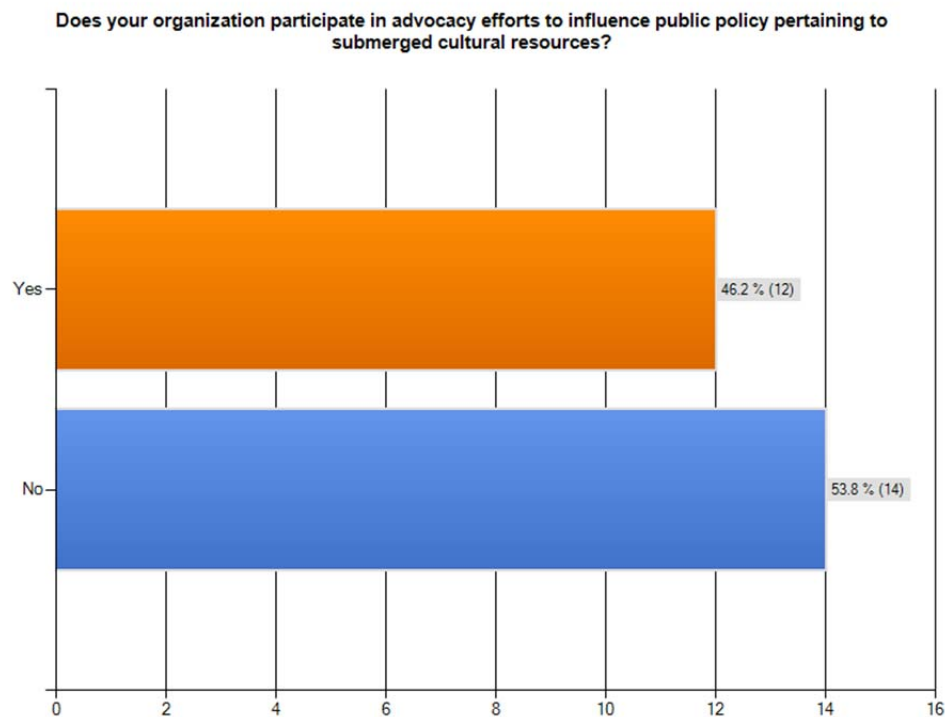
order to convey the irregular nature of publications, even if they are more frequent than the term would suggest.

As to be expected given their stewardship role, nearly half of public sector organizations participate in advocacy efforts intended on influencing public policy pertaining to submerged cultural resources (Figure 16). This number may under-represent the true extent of the public sector's advocacy role as many such organizations are not allowed to directly engage in such activities, but rather may offer input when

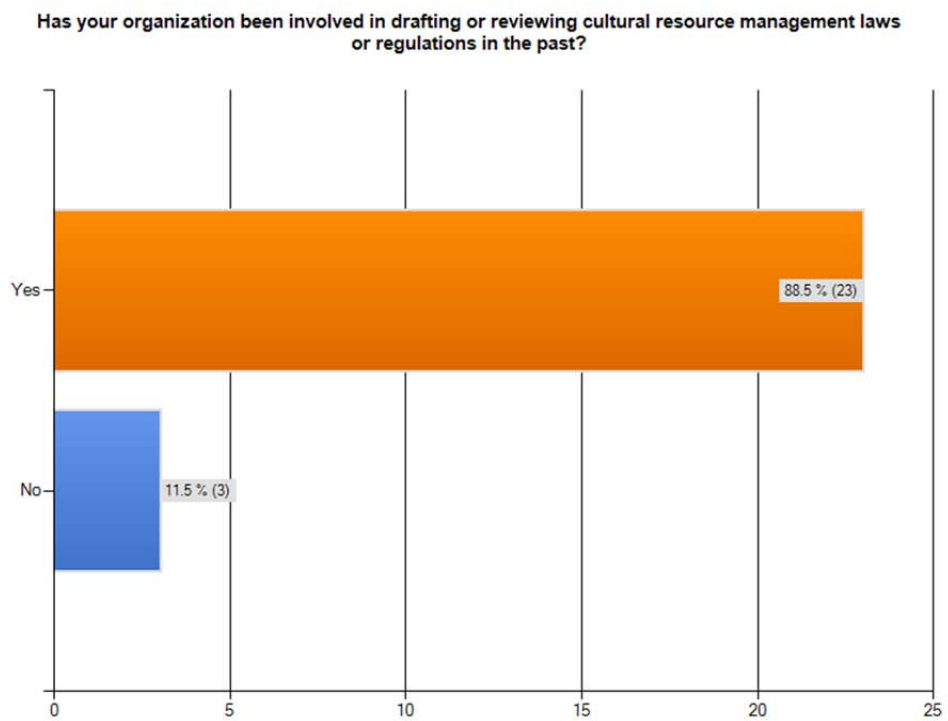
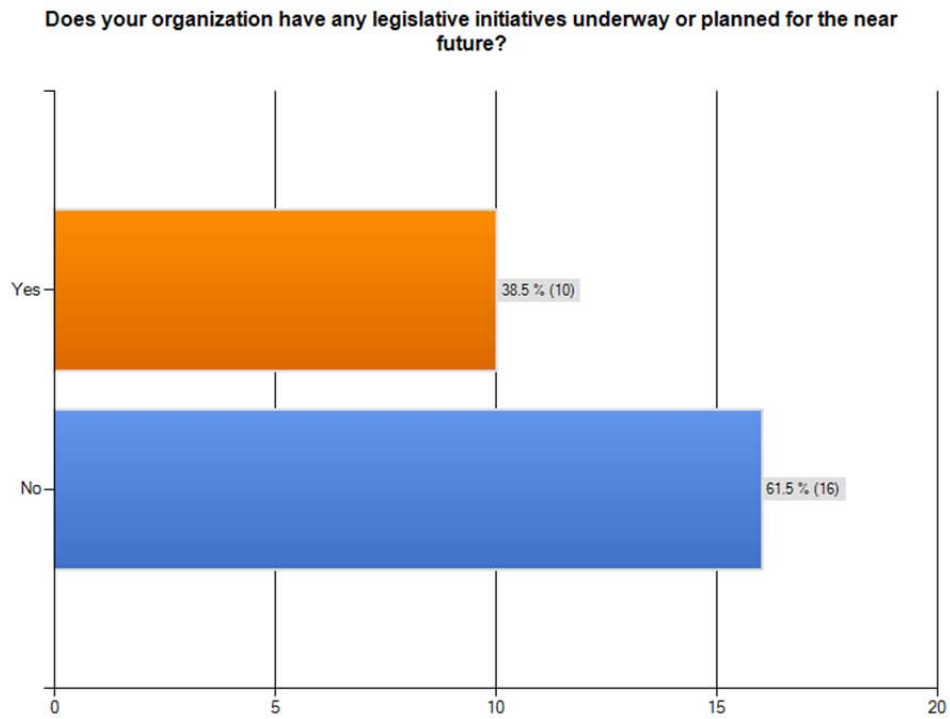


**FIGURE 15.** Graph indicating public sector responses to MHQ question #22 pertaining to the publication practices of respondent organizations.

asked by legislators or policy formulators. More than a third of respondents indicate that they currently have legislative initiatives underway or planned for the near future (Figure 16). According to respondent comments, such initiatives range from the expansion of sanctuary boundaries, to establishing a management mechanism for the site of RMS *Titanic*, collaborating with foreign countries on managing resources that fall under shared jurisdiction, re-authorizing the National Marine Sanctuaries Act, and drafting the implementing regulations of the Sunken Military Craft Act.



**FIGURE 16.** Series of graphs indicating public sector responses to MHQ questions #24, #25, and #26 pertaining to advocacy, legislative, and legislative review practices of respondent organizations.



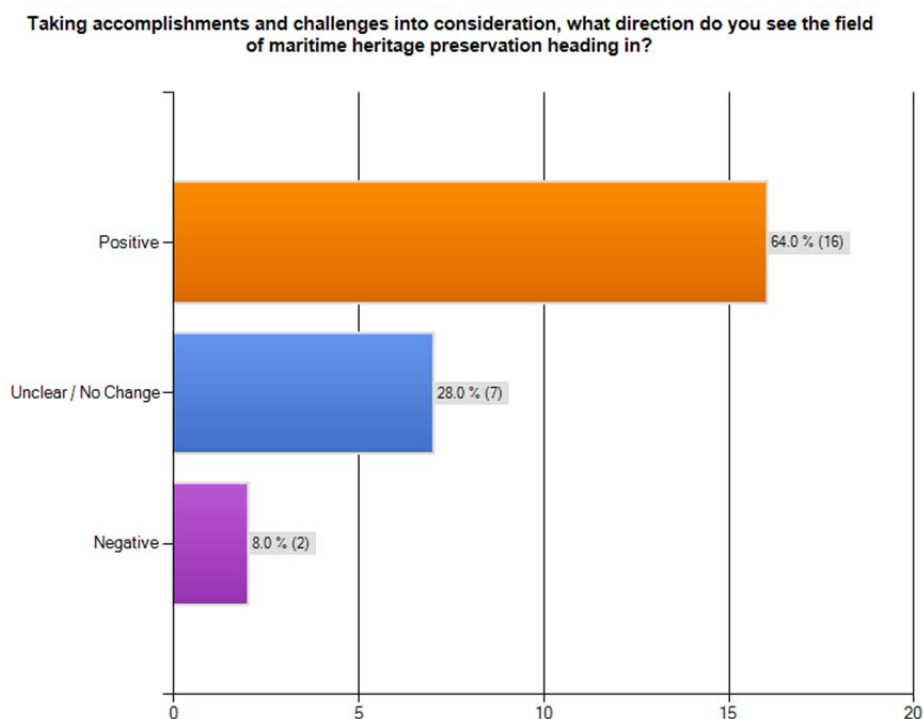
**FIGURE 16.** *Continued.*

The vast majority of public sector organizations have engaged in drafting or reviewing cultural resources laws or regulations in the past, indicating a notable interest in the stewardship of cultural resources (Figure 16). Among the variety of documents reviewed, organizations noted program-specific guidelines dictating survey methodologies, the presentation of data, and the types of projects that require surveys, as well as internal program policies. A number of respondents maintain permitting policies based on agency regulations, or are stewards of public lands or sanctuaries requiring management plans. At the same time, public sector agencies also noted their involvement with broader legislative or regulatory efforts such as ARPA, ASA, R.M.S. Titanic Maritime Memorial Act, SMCA, state statutes, and the development of 36 C.F.R. 79.

Overall, taking accomplishments, challenges, and current initiatives in consideration, two-thirds of public sector organizations responded in an encouraging manner when asked about the direction the field of maritime heritage preservation is heading in (Figure 17). Only a small minority observed a negative trend, while a little more than a quarter responded that the direction was unclear or that, on the whole, they observed no changes in the general trend.

### ***Qualitative Data***

The MHQ also included four questions that enabled respondents to provide short, personalized answers on matters regarding legislative and policy issues, and provided an optional field open for any additional feedback. Question #23 required respondents to



**FIGURE 17.** Graph indicating public sector responses to MHQ question #30 pertaining to the overall direction of the field of maritime heritage preservation, as viewed by respondent organizations.

identify their main submerged cultural resource management policy concerns and any legislative gaps that, in their view, impact submerged cultural resources as a whole. While, given the diverse nature of respondents, answers were often specific to the purview of each organization, certain trends emerged among the responses. Perhaps among the most common pertained to budgetary restrictions and the potential of having to diminish or cease certain functions; in two cases, funding cuts may threaten the loss of a maritime heritage program altogether. Submerged cultural resources, a complex, less visible, and perhaps more expensive set of resources to manage and support, are

apparently receiving less funding than their terrestrial counterparts. This trend further challenges inventory, assessment, and protection efforts. Many public sector organizations are still attempting to develop a baseline inventory of maritime heritage resources. A deeper related issue that a number of respondents addressed is that of cultural resource inequality. This takes many forms, beginning with favorable treatment directed towards terrestrial over submerged resources. Elsewhere natural resources are heavily protected and of great concern, while maritime heritage resources are given less attention. Certain organizations such as JPAC direct their efforts toward more recent maritime heritage resources, those less than 100 years old, which are not commonly protected in the international arena. Given that World War II was one of the defining events of the last century, this poses challenges for the preservation of most of the resources that fall within the organization's scope. Others, such as the NHHC, report that certain types of resources, in this case sunken historic aircraft, receive unequal treatment compared to contemporary shipwrecks, and the challenge of managing them is exacerbated by the fact that state policies towards them range from complete protection to general indifference. Overlapping jurisdictions, which the NHHC response touches upon, are also mentioned by other organizations, including the NPS which is contending with the management of foreign-owned wrecks within the National Park System. The same can be said for the management of sunken military craft within national marine sanctuaries of national parks. A further issue expressed by a number of organizations is that submerged archaeological sites are particularly challenging to protect from illicit disturbance. Looting and salvage is brought up by a number of federal and state

organizations as a serious concern. State agencies vary in their satisfaction with state laws; some such as Texas find them to be strong enough, and others believe they provide limited disincentive to potential violators or that they do not take into consideration the unique properties of submerged cultural resources. Still others, like Alabama, are concerned about legislative efforts to weaken what is currently in place. In one unorthodox case, a state agency resorted to filing a salvage claim on a group of shipwrecks to preclude outside claimants from taking similar action. However, it is submerged archaeological sites outside state waters that appear to be of particular concern, as they are largely open to exploitation. The ASA and ARPA do not extend legal protection to resources located on the OCS. While “Section 106” provides some measure of protection against inadvertent damage as a result of development, these sites, for the most part (sunken military craft are protected regardless of location), remain vulnerable.

Asked whether their organizations have been affected by any recent changes in legislation or regulations (MHQ #27), half of respondents answered in the negative. A number of the remaining organizations cited the passage of the SMCA, providing both encouragement about the passage of the statute, but also expressing uncertainty about its application and how it would affect management of sites located within overlapping jurisdictions. One respondent expressed an interest in seeing the SMCA enforced, something that will become more likely when the Act’s implementing regulations are put in place. Overlapping jurisdictions appear to be a subject of interest in another area as well, namely that of cooperation and the adoption of guidelines affecting federal and

state agencies such as those issued by BOEM and states involved in offshore wind turbine projects. Elsewhere, interest turns to the Annex Rules of the 2001 Convention on the Protection of the Underwater Cultural Heritage, and their adoption as best management practices. Certain states addressed legal challenges; twice in New York, the ASA was applied to help preserve cultural resources, while Alabama utilized its Underwater Cultural Resources Act to arrest and convict an individual of theft of state property. This action may have resulted in the current challenge to the state law. Finally, in Michigan, an unfortunate recent development saw the dissolution of the state's Department of History, Arts and Libraries, and the abolishment of the Office of the State Archaeologist.

When discussing the most important recent accomplishments of their organizations or the field as a whole (MHQ #28), certain encouraging trends emerge. The most prominent among them is the increased collaboration and partnerships noted between public sector organizations, as well between governments (e.g., UNESCO Convention). MARAD notes its developing partnerships with the NPS, both with the Submerged Resources Center and with the Historic American Engineering Record. The Archaeology Program of the NPS notes the general agreements to foster stewardship of and research on resources of common interest with the governments of the United Kingdom and Spain, an approach also adopted by the NOAA's Maritime Heritage Program. A number of states note their partnerships with the NOAA when it comes to sanctuary management and engaging in collaborative projects such as recent initiatives in Hawaii, Michigan, Massachusetts, or North Carolina. A Cultural Heritage Resources



Working Group, under the MPA Federal Advisory Committee, has brought together experts from a number of organizations to help develop a vision for expanding the scope of cultural heritage resources within the updated Framework for the National System of Marine Protected Areas. The NHHHC has loaned over 6,000 artifacts to museums around the country, demonstrating inter-sector collaborative efforts as well. Elsewhere, funding received through the NOAA's Office of Exploration and Research has fostered research, or the NOAA heritage awareness courses such as those offered in Anchorage and Juneau have raised public awareness.

This leads to the second trend observed in the responses provided by public sector organizations: a raised awareness among the public of submerged cultural resources. Efforts in this regard by Florida, in partnership with the Florida Public Archaeology Network, may be seen as a model to be followed. At the same time, prominent archaeological discoveries and projects such as the Battle of the Atlantic Expedition, *La Belle*, the whaler *Two Brothers*, USS *Monitor*, and USS *Scorpion* have captured the public's attention, partly through the application of deep-water surveys and advanced technology. These isolated discoveries are complemented by the growth and development of inventories and GIS applications dedicated to maritime heritage resources: BOEM, JPAC, MARAD, NHHHC, Alabama, and New York all noted recent or current initiatives in this regard. This is accompanied by an increased number of listings of significant sites on the NRHP. Such efforts are gaining new support for maritime heritage resources which are now being incorporated more thoroughly into planning processes (e.g., the Ocean Special Area Management Plan in Rhode Island), have led to

increases in staff numbers (e.g., JPAC), are the focus of collaborative efforts between the sport diver community and heritage specialists (e.g., Minnesota), and have resulted in more stable funding for stewardship programs (e.g., NPS Submerged Resources Center). Texas has observed a notable increase in the number of academic programs that are beginning to integrate maritime history or maritime archaeology in their general curriculum, pointing to Texas A&M University Galveston, Texas State University, and University of Texas Pan-American.

This growth has also been accompanied by the last major trend that emerged from public sector responses: progress on the legislative front. New York recently prevailed in a challenge to the ASA involving an intact Great Lakes Schooner from c. 1830 which had been arrested by would-be salvors in federal court (see Toner 2011). The ruling judge found that “abandonment” may be inferred by circumstances and need not be demonstrated by a specific instrument, broadening the perception of sites that are covered under the ASA. Successful arguments against Odyssey Marine Exploration in the *Nuestra Señora de las Mercedes* case have thus far strengthened sovereign immunity claims, something codified in the recent SMCA and its forthcoming implementing regulations. One of the most practical recent accomplishments cited was the completion of a series of essays on maritime heritage laws in each of the fifty states prepared by the Archaeology Program of the NPS (see Archeology Program 2009a).

On the other hand, MHQ #29 requested respondents to provide feedback concerning the greatest challenges faced by their organizations and, in their view, the field of maritime heritage preservation as a whole. Twenty-one of 25 respondents, more

than three-quarters, identified funding and staffing as among the primary, if not the primary, challenge facing their organization. This is particularly telling as this was an open-ended question with no pre-selected responses to choose from. In several cases, this issue is so pressing that it questions the agency's or function's survival, while several respondents indicate that the situation is becoming more grave. One state agency noted that the state eliminated it from the budget in 2002 and that federal grant funds, in particular Transportation Enhancement grants, have acted as their most significant source of funding since that time. As aforementioned, the sustainability of this federal grant program is under question, which in turn poses raises a critical issue for organizations that depend on them. Adjacent to this issue is the matter of lack of expertise in preserving maritime heritage resources. Funding and staffing limitations have prevented several public sector organizations from incorporating experienced maritime heritage specialists into their ranks, or led others to assigning the responsibility to multi-agency boards or external partners. Similarly, reduced program capacity leads to the inability to undertake site inventory surveys, outreach, training, and coordination efforts. In the Northwestern Hawaiian Islands, only about 20 of potentially 140 maritime heritage resources have been discovered, in an example that also illustrates the associated logistical challenges when dealing with remote resources. All the while, several state organizations mention that archaeological sites are becoming more accessible to a greater number of the public than ever before, given the development and drop in price of remote sensing equipment.

These difficulties have led to a diminished ability to tackle the other prominent challenge noted by respondent organizations in the public sector – garnering public support through public education on both what can be learned from maritime heritage resources and why they should be preserved. The importance of such public outreach initiatives was demonstrated recently when, according to the Texas Historical Commission, public support saved the agency from elimination following what may have been the largest public letter-writing campaign to save any Texas state agency experiencing cuts. In the case of California, unfortunately, public support of parks and maritime heritage programs does not appear sufficient to avoid closures and program abandonment. A number of organizations note the importance and difficulty in reaching out to ethnically diverse audiences and representing multiple heritage perspectives. More than anything else related to this subject, respondents point to the “media glorification of unethical artifact recovery” (Maryland), the inability as a maritime heritage preservation field “of making the public aware of the difference between treasure hunting and archaeology” (NOAA Office of National Marine Sanctuaries, Stellwagen Bank), and diminishing the public and media sympathy for treasure hunters. There is a “need to recapture the public’s imagination and support” urges the respondent from Massachusetts. While addressing this challenging issue, a word of caution is raised by the NOAA’s Office of National Marine Sanctuaries, an agency with notable experience in the area of public education. When the “discovery and instant documentation of a given wreck site satisfies so much of the outreach mandate,” it is “hard to continue support for the more in-depth archaeological and historical work.”

This poignant note leads to a discussion of the final trend observed in responses, that of archaeological standards. Federal agencies in particular are facing the challenge of standardizing and establishing coordinated, consistent, and well-defined policies regarding historic properties. JPAC notes that this is an area that requires concentrated effort. Meanwhile, the NHHHC is faced with an internal lack of consensus on the treatment and preservation of a particular subset of the U.S. Navy's submerged cultural resources – sunken historic aircraft. A BOEM representative notes the inconsistency between agency guidelines regarding line spacing of survey lanes – in the Gulf of Mexico they are set at 50 m or 300m, in the Atlantic at 30m or 200m, while in the Pacific at 40m or 150m depending on survey parameters. The overall result might be inadequate survey results in some areas, but on the whole an uncoordinated approach among the professional community, and in particular the group of organizations that set the standards, may hinder the effective management of these resources. The lack of a clear and cohesive message may also diminish the impact on public perception and adherence to policies. This comes in addition to the final issue noted by the BOEM Pacific Region – limited legal protection of resources in federal waters to begin with.

## **THE SOCIAL SECTOR: UNIVERSITIES, MUSEUMS AND NON-PROFIT ORGANIZATIONS**

### *Composition of Respondents*

Thirty-four organizations representing the social sector responded to the MHQ, of which 15 were universities, 12 were non-profit research institutions, 4 were avocational groups, and 3 represented museums (Table 10). This group of respondents is distinguished by their diverse nature representing educational, research, advocacy, and avocational interests. Though there are exceptions, the organizations in the social sector tend to focus their efforts on the pursuit, dissemination, and preservation of knowledge for the benefit of society as a whole, with resource management and business interests serving secondary roles.

The university respondents include academic institutions that have programs dedicated to different areas of maritime archaeology, anthropology, maritime cultural resource management, historical or classical archaeology, underwater science, and materials conservation. Academic programs range from offering doctorate degrees in Anthropology (i.e., Texas A&M University) or Coastal Resources Management (i.e., East Carolina University), to professional graduate or bachelor degrees in Maritime Studies (i.e., East Carolina University, University of West Florida) and certificates in underwater resource management (i.e., Indiana University Bloomington) (East Carolina University 2012a; East Carolina University 2012c; Indiana University 2012b; Texas A&M University 2012a; University of West Florida 2012a). Some organizations have a

single individual pursuing maritime heritage resource-related activities, while others support entire departments focused on the subject. In addition to teaching functions, most universities have active research agendas (both domestically and internationally), while several also support conservation laboratories (e.g., Clemson Conservation Center, Conservation Research Laboratory at Texas A&M University, Maritime Conservation Laboratory at East Carolina University), serve as curation facilities for archaeological material (e.g., SCIAA), undertake public outreach and advocacy efforts (e.g., Florida

**TABLE 10.** *List of Social Sector Organizations that Responded to the Maritime Heritage Questionnaire*

Category	Organization
Universities	Clemson University, Warren Lasch Conservation Center
	Coastal Carolina University, Center for Archaeology and Anthropology
	East Carolina University, Program in Maritime Studies
	Florida Public Archaeology Network
	Indiana University of Pennsylvania, Department of Anthropology
	Indiana University, Office of Underwater Science
	Luther College, Classics Department
	Texas A&M University, Center for Maritime Archaeology and Conservation
	Texas A&M University, Department of Anthropology, Nautical Archaeology Program
	The George Washington University, Capitol Archaeological Institute

**TABLE 10.** *Continued*

Category	Organization
	University of Connecticut, Avery Point, Maritime Studies Program
	University of Maine, School of Marine Sciences
	University of Miami, Rosenstiel School of Marine & Atmospheric Science, Division of Marine Affairs & Policy
	University of South Carolina, South Carolina Institute of Archaeology and Anthropology
	University of West Florida, Anthropology Department
Museums, Non-Profit Organizations and Societies	Advisory Council on Underwater Archaeology
	Cleveland Underwater Explorers, Inc.
	Great Lakes Historical Society
	Great Lakes Shipwreck Preservation Society
	Historic Naval Ships Association
	Institute for International Maritime Research, Inc.
	Institute of Nautical Archaeology
	Lake Champlain Maritime Museum
	Lighthouse Archaeological Maritime Program
	Maritime Archaeological and Historical Society
	Maritime Heritage Minnesota
	Monterey Bay Aquarium Research Institute
	Ocean Exploration Trust ( <i>Incomplete</i> )
	Promare Inc.
Rhode Island Marine Archaeology Project	
RPM Nautical Foundation	
Smithsonian's National Museum of American History	



**TABLE 10.** *Continued*

Category	Organization
	Underwater Archaeological Society of Chicago Waitt Institute

Public Archaeology Network), and in certain cases engage in providing compliance-driven archaeological and conservation services (e.g., Center for Maritime Archaeology & Conservation at Texas A&M University, Marine Services Center at University of West Florida) (Center for Maritime Archaeology and Conservation 2012; Clemson Conservation Center 2012; East Carolina University 2012b; Florida Public Archaeology Network 2012a; South Carolina Institute of Archaeology and Anthropology 2009b; Texas A&M University 2012b; University of West Florida 2012b). As to be expected from the tertiary education system through which many of the country's professionals emerge, it is as diverse as the field as a whole.

The remaining social sector respondents represent a wider array of organizations. They include museums (e.g., Lake Champlain Maritime Museum, the Smithsonian's National Museum of American History), a public advocacy organization (i.e., Advisory Council on Underwater Archaeology), professional research-focused organizations (e.g., Institute of Nautical Archaeology, Lighthouse Archaeological Maritime Program), avocational research-focused organizations (e.g., Institute for International Maritime Research, Maritime Archaeological and Historical Society), foundations (e.g., Promare, RPM Nautical Foundation, Waitt Institute), and an association (i.e., Historic Naval Ships

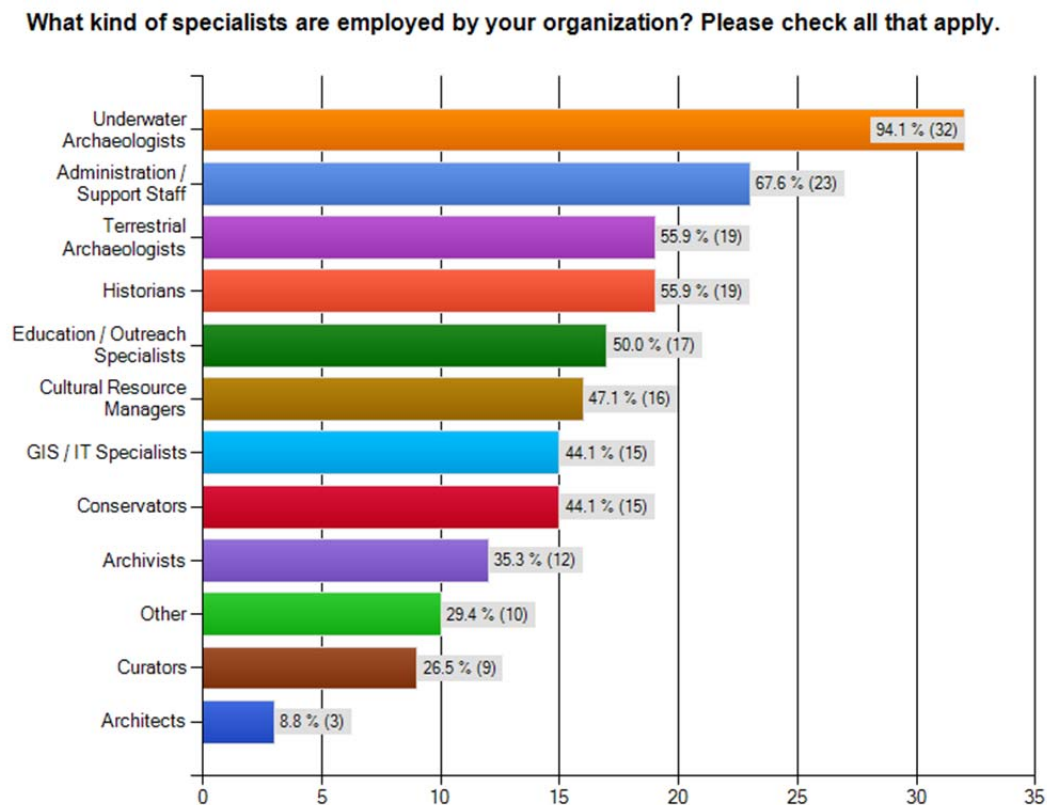
Association). Many of these organizations are composed of professional staff; others are primarily built on volunteer membership, while still others represent a combination of the two.

It is important to note that, of the three sectors, the social sector engages in research for the sake of research as a matter of course. Many of the most prominent discoveries in recent years have come from research projects undertaken or directly supported by both groups of social sector organizations (Institute of Nautical Archaeology 2012; Lake Champlain Maritime Museum 2012; Promare 2012; RPM Nautical Foundation 2012; Waitt Institute 2012). Funding varies greatly from organization to organization, as does their geographical scope. Although social sector organizations are distributed throughout the country, in many cases they do not focus exclusively or primarily on their local areas; many operate nationwide or even internationally. As a result of the notable diversity in their missions and functions, trends identified within this sector should be viewed as meaningful in that they represent a broad array of stakeholders involved in maritime heritage resources and their preservation.

### ***Quantitative Data***

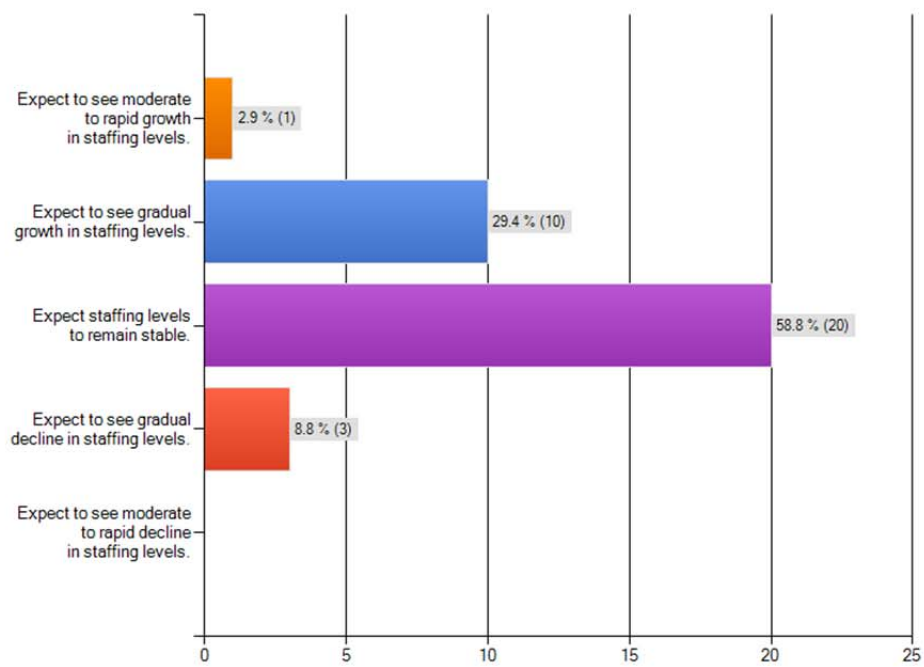
Social sector respondents are staffed by an array of specialists that both mirrors and reflects differences with the staffs of their public sector counterparts (Figure 18). The vast majority of respondents include underwater archaeologists, a higher percentage than was evident in the public sector. Their staffs are also composed of a slightly higher

percentage of terrestrial archaeologists, historians, conservators, and curators, when compared to their public sector counterparts. At the same time, support services provided by administrative staff or GIS / IT specialists are less frequently encountered in social sector organizations. These trends may show a heavier emphasis on mission-essential staff, something supported by additional comments provided by respondents,

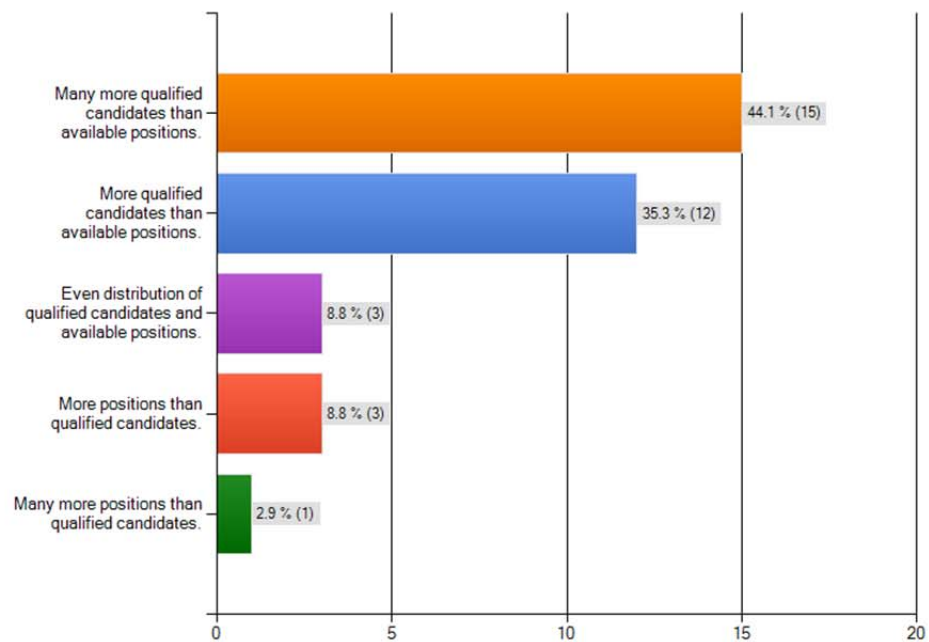


**FIGURE 18.** Series of graphs indicating social sector responses to MHQ questions #10, #11, and #12 pertaining to staff specialties and staff levels within respondent organizations, and the overall balance between available positions and qualified candidates.

**Do you foresee any adjustments to your staffing levels in the near future?**



**How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**



**FIGURE 18.** *Continued.*

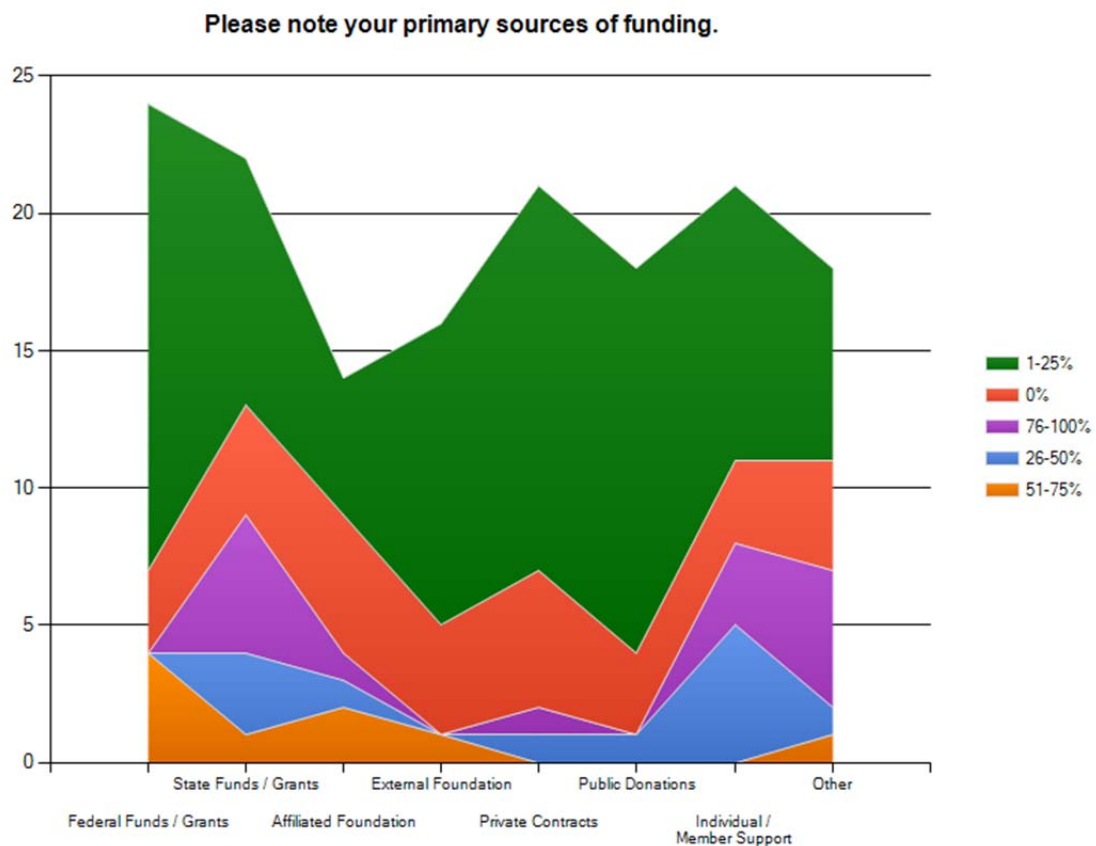
indicating that staff members operate in a variety of capacities. Demonstrating the same mission-essential staffing priorities, the social sector includes proportionally fewer cultural resource managers as compared to the public sector. Though this is to be expected, what is perhaps surprising is that nearly half of social sector organizations are staffed by cultural resource managers. Universities and certain non-profit research organizations tend to have the greatest variety of staff specialists, incorporating not only the categories included below, but also professionals and scientists of other fields (e.g., oceanographers, anthropologists, engineers). Other organizations within this sector appear to operate on a volunteer basis and hence have limited paid-staff capabilities, if any.

Slightly less than 10 percent expect their staffing levels to decline, while nearly 60 percent expect staffing levels to remain stable, indicating that nearly three-quarters of social sector organizations expect to see no growth in the number of available employment opportunities. On the positive side, however, nearly 30 percent indicate that they expect to see gradual growth in the near future. The perception of the distribution of available positions to qualified candidates is on the whole similar to that expressed by organizations in the public sector – in this case, nearly 80 percent of respondents agreed that there were more qualified candidates than available positions, though nearly 45 percent believe that the disparity is significant. A smaller percentage of organizations, approximately 35 percent, deem the disparity to be present, compared to the nearly 55 percent of public sector organizations that responded in the same manner. In this case, however, unlike the public sector, nearly 20 percent of social sector organizations

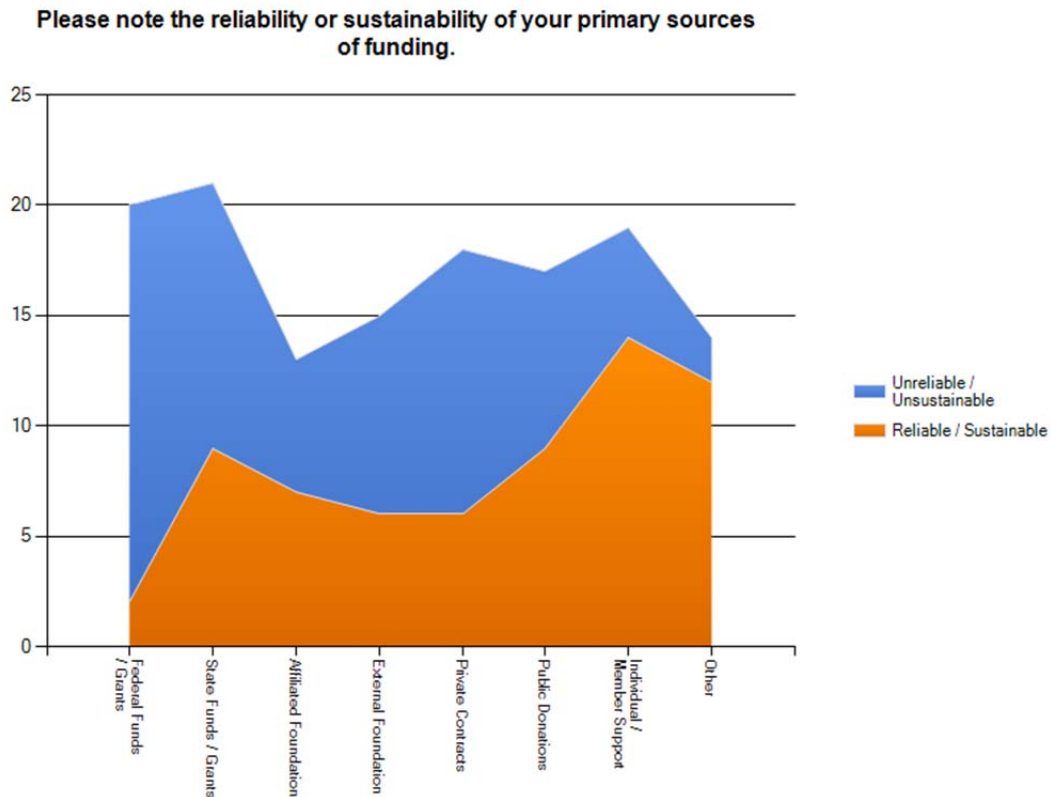
responded that there is either an even distribution between candidates and positions, that there are more positions than qualified candidates, or, in one instance, that there are many more positions than qualified candidates. No accompanying comments were provided to help interpret this data set, though it is worth noting that the respondents who see the balance favoring the candidates were not tied to one sub-category of organizations but included three avocational groups, two universities, and two research-driven non-profit organizations.

As can be seen in Figure 19, nearly three-quarters of organizations depend, in some small part (1-25 percent) on federal funds or grants, while nearly a fifth views such funding as a primary source of support (51-75 percent). Reliability on state funding is more evenly distributed, with nearly a fifth not drawing from this source and nearly a fourth heavily, if not fully, reliant on it. The remaining organizations tip the balance towards the lower end of the spectrum, with over 40 percent noting some dependence (1-25 percent) on state funds. Affiliated foundations do not serve as a source of financial support for slightly more than one-third of respondents, provide a small amount (1-25%) of support to as many respondents, while the remaining organizations rely moderately to heavily on this source of funding. External foundations touch a broader number of organizations in some form (nearly 70 percent claim 1-25%), though they serve as one of the main sources of funds for only one organization. Private contracts mirror the general response rate for external foundations, touching organizations broadly, but in a less significant manner. The same pattern is visible with public donations, although in this case the percentage of organizations affected border 80 percent. A significant source of

funds, though to varying degrees depending on the organization, is individual or member support, something to be expected when considering the large number of non-profit organizations that constitute this group. What is not reflected in Figure 19, however, but became evident in associated comments was that institutional trust funds or endowments play a significant role in organizational funding, as does student tuition, and museum or



**FIGURE 19.** Series of graphs indicating social sector responses to MHQ questions #13 and #14 pertaining to the primary sources and reliability of funding available to respondent organizations.



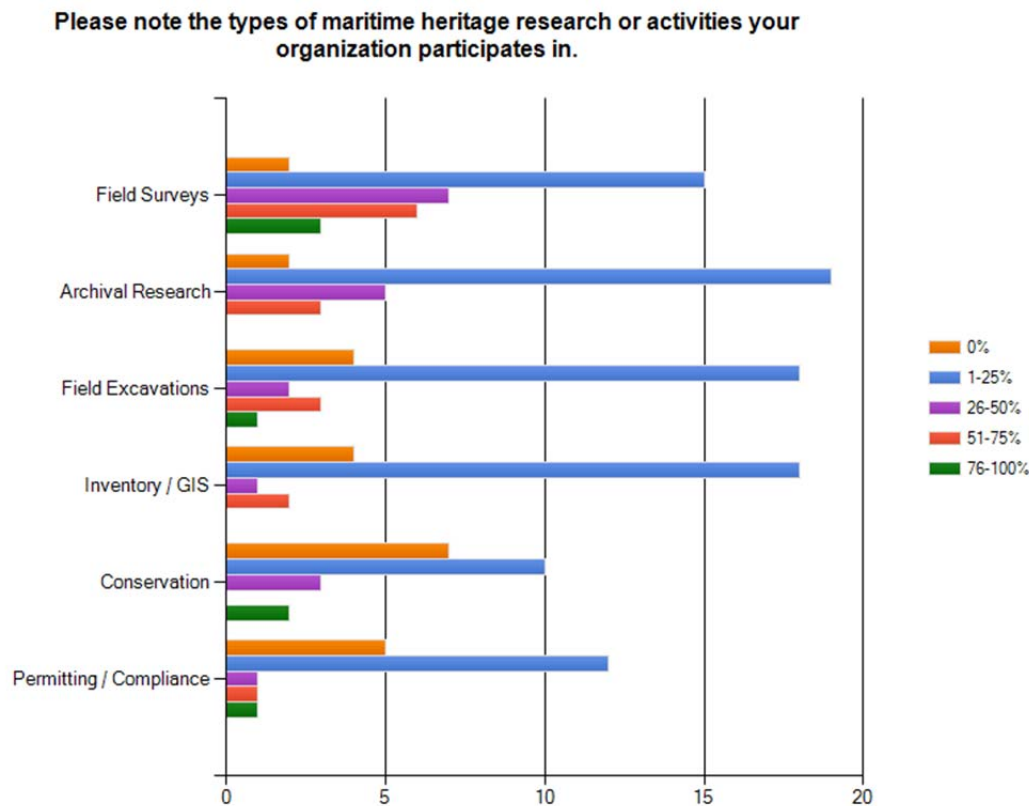
**FIGURE 19.** *Continued.*

historic property revenue (e.g., admission, gift shop revenues). This is supported by the fact that the “Other” category composed of these various sources of funding was deemed as a particularly reliable or sustainable means of support by 12 of the 14 organizations (85 percent) that to various degrees rely on this source of funding. Individual or member support was deemed the next most reliable by 14 of the 19 (nearly 75 percent) organizations that rely on it. Public donations and affiliated foundations were deemed reliable sources of funding by slightly more than half of organizations depending on



them. On the other end of the spectrum, federal funds lead in unreliability or unsustainability, judged as so by 90 percent of respondents. Private contracts, external foundations, and state funds follow with perceived reliability spanning between 57 and 67 percent. According to supplementary comments, these less reliable sources of funding appear to some organizations to be becoming even less so.

Responses pertaining to social sector engagement in maritime heritage research or associated activities demonstrate the breadth of these organizations' missions. This diversity is illustrated by the fact that the large majority of respondents dedicated some time (less than a quarter) to performing nearly every individual function among those presented (Figure 20). When it comes to inventory or GIS-based activities, the vast majority of organizations engage in it only as a tangential activity. Archival research illustrates a similar pattern as nearly two-thirds of respondent organizations dedicate only some time to this function; what differs here is that a quarter of respondents actually spend between a quarter and three-quarters of their time on this activity. When it comes to permitting, nearly a third are not engaged in it, while almost half dedicate less than a quarter of their time to it. What is interesting to note, however, is that three organizations spend between a quarter and half their time on permitting, while it serves as the primary function for two. In the case of social sector organizations, this category generally represents the time dedicated to completing and filing permit applications, though in certain cases it may also represent the time dedicated to reviewing such applications (e.g., SCIAA).



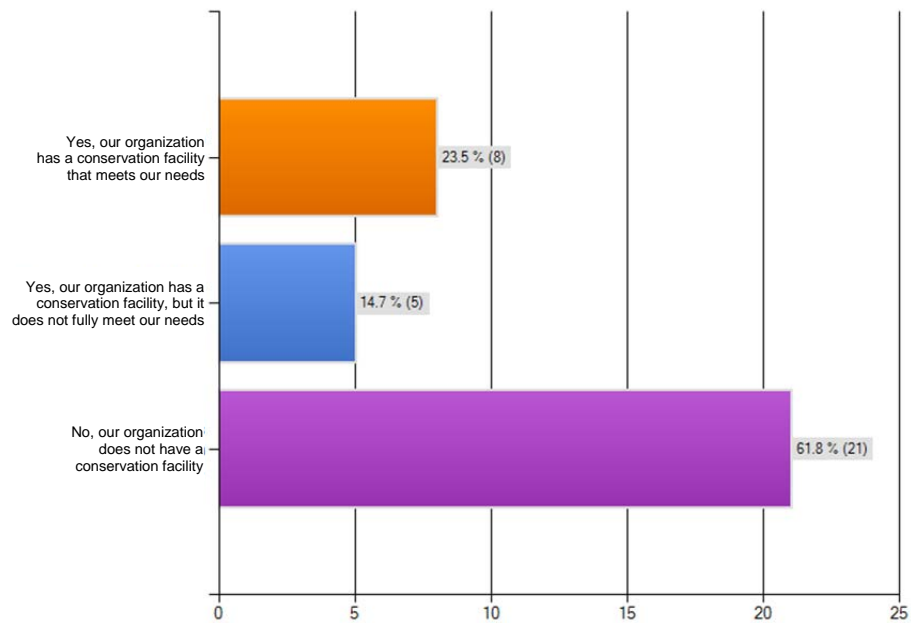
**FIGURE 20.** Graph indicating social sector responses to MHQ question #15 pertaining to the scope of research or other activities performed by respondent organization.

By far, the activity social sector organizations are most commonly engaged in are field surveys, which, for approximately a third of the organizations, accounts for more than half of their research activities. Another two-thirds or so spend less than half of their time on field surveys, though they actively participate in them. Only two organizations responded that they are not involved in field surveys at all, the lowest of all the functional categories. Associated with field surveys are field excavations. Here the pattern repeats, although there is a shift to the lower end of the spectrum as nearly

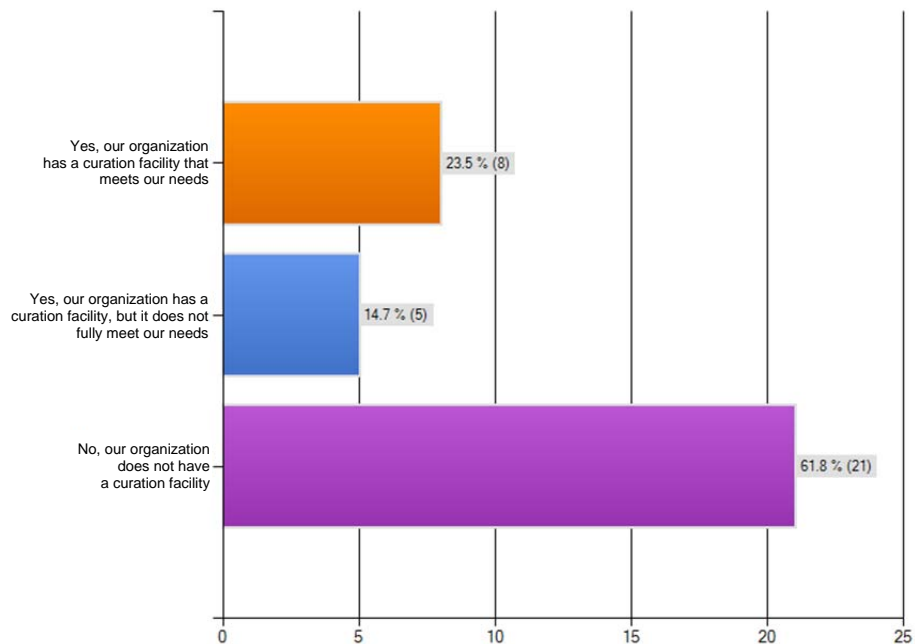
two-thirds of organizations spend less than a quarter of their time on this type of research and nearly 15 percent do not engage in excavations at all.

Conservation represents the least engaged-in of the activities included in the MHQ, with nearly a third of organizations responding that they do not participate in this function at all. Almost half dedicate less than a quarter of their time to it, and three organizations dedicate between a quarter and half of their time; for two organizations, however, conservation serves as their primary function. These responses correlate with the fact that over 60 percent of organizations do not have a conservation laboratory, while an additional 15 percent maintain a conservation laboratory that only partially meets their need (Figure 21). The remaining quarter of organizations do maintain a laboratory that meets their needs, an overall distribution that mirrors that of the public sector. Unlike public sector organizations, however, which proportionally maintain a far greater number of curation facilities, in the case of the social sector the distribution and satisfaction with curation facilities appears to be identical to that of the sector's conservation facilities (Figure 21). The responses suggest a concentration of conservation and curation facilities among the organizations whose missions most require the use of such facilities, with the remainder of the sector either not having use for such facilities, or turning elsewhere for conservation and curation services. It is important to note that social sector organizations do not necessarily maintain responsibility for the stewardship of archaeological sites or recovered artifacts and therefore may not need either a conservation or curation facility to execute their mission successfully.

**Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

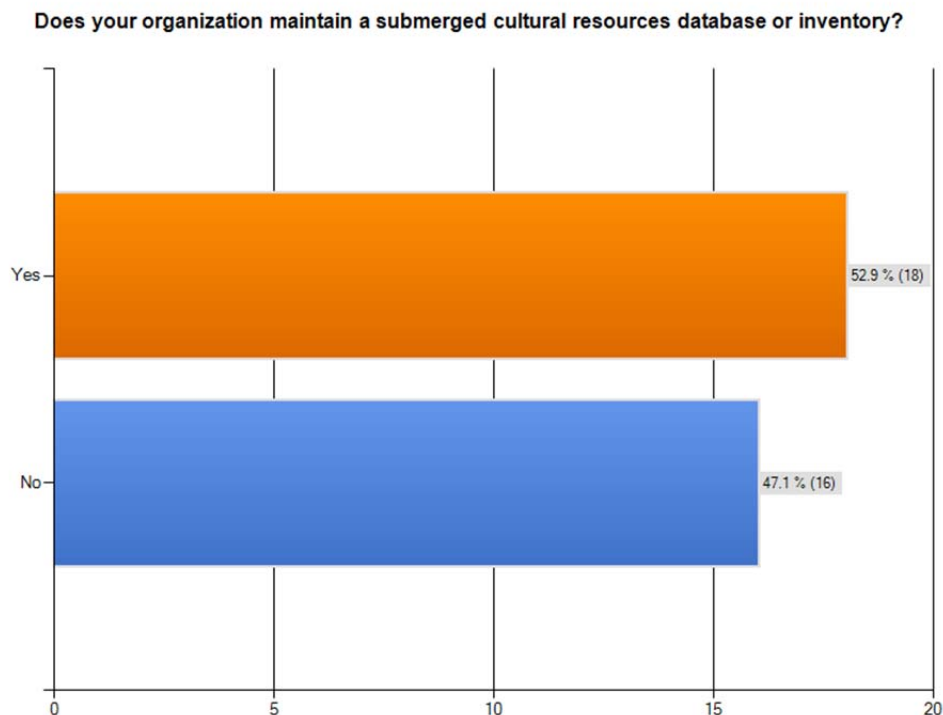


**Does your organization have a curation facility? Does it meet your institutional needs?**



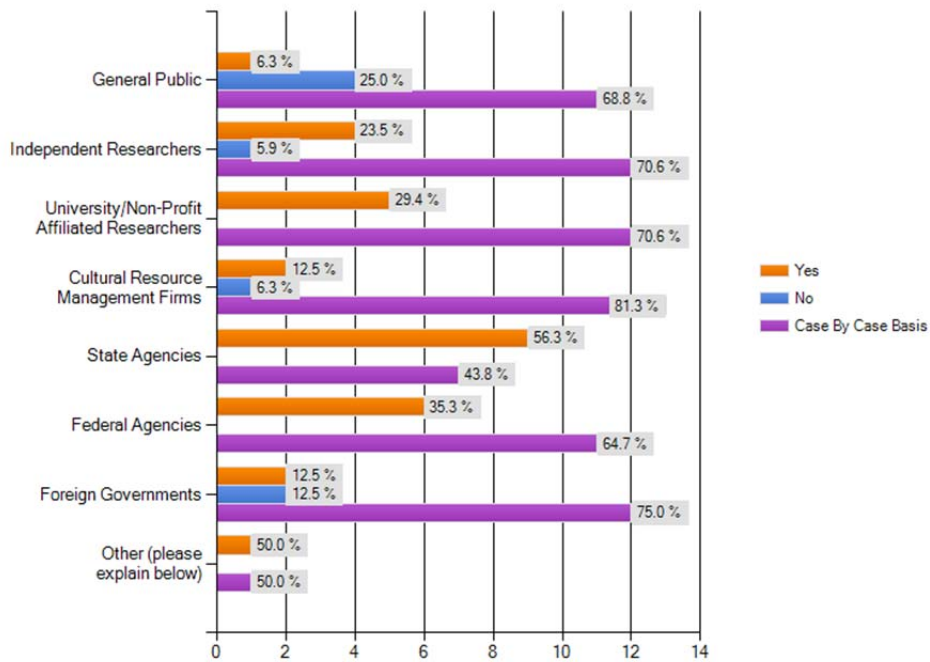
**FIGURE 21.** Series of graphs indicating social sector responses to MHQ questions #16 and #17 pertaining to the maintenance of a conservation or curation facility by respondent organizations.

Just over half of social sector organizations maintain an inventory of submerged cultural resources, presumably to keep track of resources that either fall under their stewardship or pertain to their research objectives (Figure 22). Here there is a notable difference with public sector organizations, though understandable when taking into account the respective broader missions of each sector. Nearly half of social sector organizations that maintain such inventories have turned to universities, research-focused non-profit organizations, and independent researchers in developing them. In the

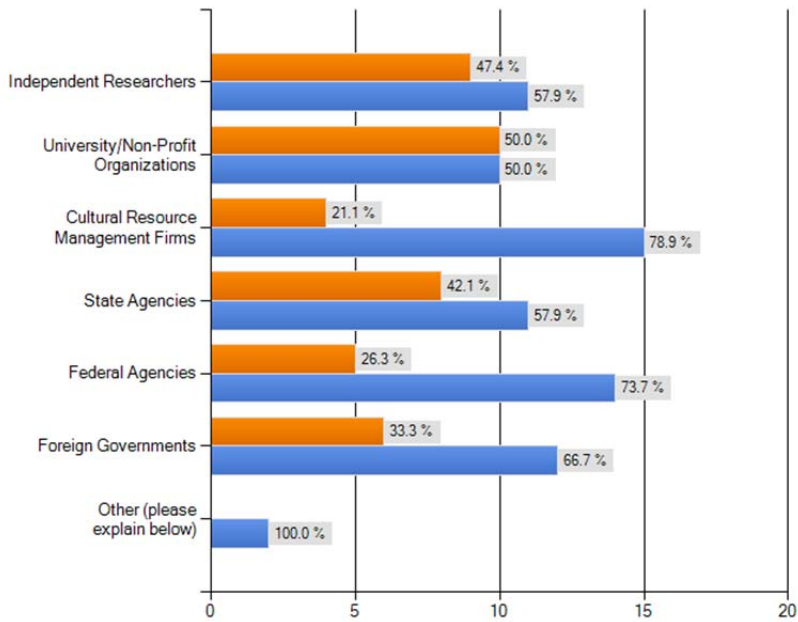


**FIGURE 22.** Series of graphs indicating social sector responses to MHQ questions #19, #20, and #21 pertaining to the maintenance of submerged cultural resource databases by respondent organizations, as well as to their development, and access policies.

**If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**



**If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**



**FIGURE 22.** *Continued.*

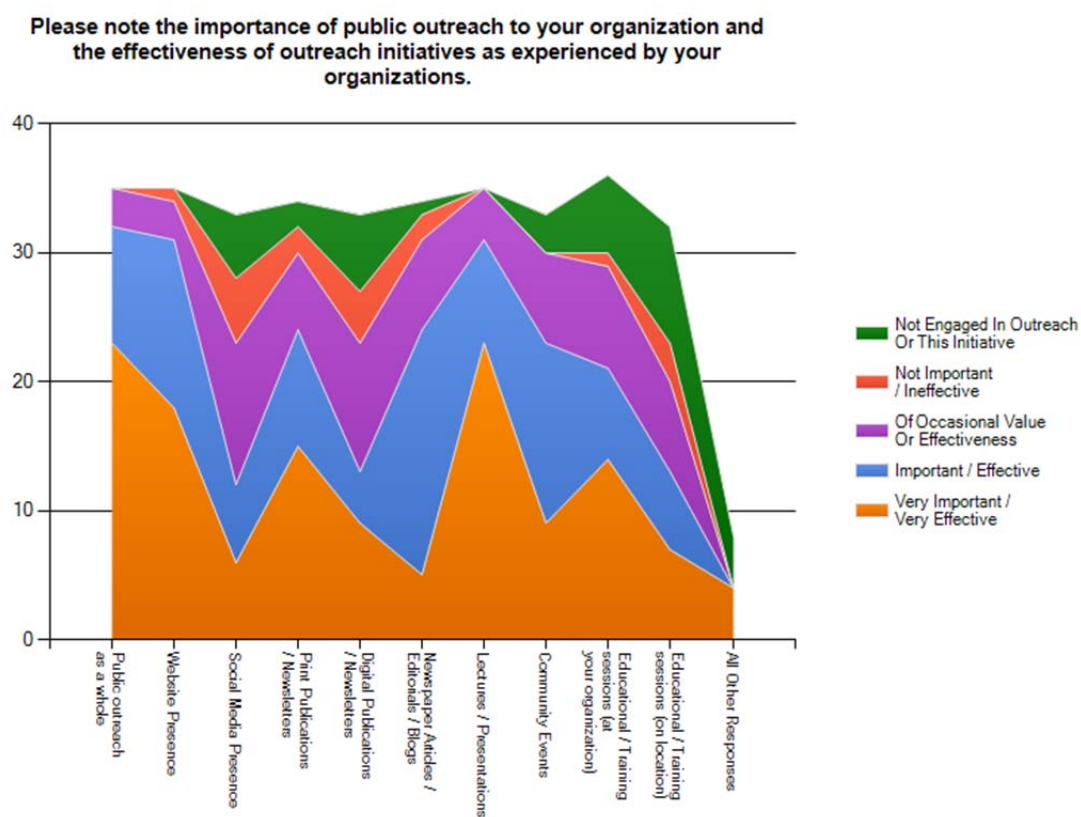
case of over 40 percent of respondents, these primary sources of data are complemented by additional information stemming from state agencies, while a third of respondents noted contributions to their databases by foreign governments. This latter source of data is of interest as it demonstrates the frequently international character of the social sector, and compares favorably to the 18 percent of public sector organizations that had turned to foreign governments for inventory purposes. Federal agencies were a source of information for just over a quarter of social sector organizations, noticeably short of the aforementioned 40 percent associated with state agencies. Only cultural resource management firms pose a more restricted source of information with approximately a fifth of social sector organizations turning to them for assistance. This is less than half the percentage associated with public sector organizations, indicating what are likely restrictions placed on cultural resource management firms when it comes to data sharing, as well as obligations for such firms to share that data with management agencies at the state and federal levels. As in the case of the public sector, when it comes to database access practices, the overwhelming response for all but one category of partners requesting data is that permission is assessed on a case-by-case basis. Only in the case of state agencies do most social sector organizations grant access to their data as a matter of course, once more reinforcing the earlier impression that they maintain a closer relation with state agencies than they do with federal agencies or other partners. Having said this, federal agencies and other university or research-focused non-profit organizations are the second- and third-most likely categories of institutions to be granted access to by social sector organizations as standard practice; this approach, however, still only

accounts for approximately one-third of organizations. No social sector organization that participated in MHQ restricts database access to public sector organizations or other universities and non-profit research institutions as a matter of course, indicating a predisposition for collaboration among sanctioned partners. The general public, however, is restricted access by a quarter of organizations, though more than two-thirds still gauge permission on a case-by-case basis. Overall, as in the case of public sector organizations, social sector organizations as a whole do not appear to have standardized database access practices. In this case, it may perhaps be easier to understand given the diverse nature of the social sector and the fact that they are not appointed as stewards of public cultural resources to the same degree as the public sector.

When it comes to assessing the importance of public outreach, two-thirds of social sector organizations rate it as very important, with an additional quarter rating it as important (Figure 23). Half of the respondent organizations deem their website to be a very effective tool in this regard, while another 40 percent or so deeming a website presence to be effective. Social media is interpreted as less effective overall, with a third attributing occasional value to it, a fifth deeming it effective, and a fifth considering it very effective. This is in significant contrast to the public sector and indicates a much broader adoption of this tool by the social sector – only 15 percent of the organizations indicated that they do not engage in this type of outreach. Print publications and newsletters, garner stronger support across the board and are deemed by nearly three-quarters of respondents as effective or very effective, with nearly half weighing in towards the latter end. Digital publications and newsletters, on the other hand, have not



made the same impression on social sector organizations, with 40 percent deeming them effective or very effective, 30 percent deeming them of occasional effectiveness, and 30 percent of respondents finding them to be ineffective or not engaging in this type of outreach. A much larger proportion of organizations, nearly three-quarters, find that newspaper articles, editorials and blogs are an effective or very effective instrument of public outreach, with a further fifth deeming them to be occasionally effective. By far

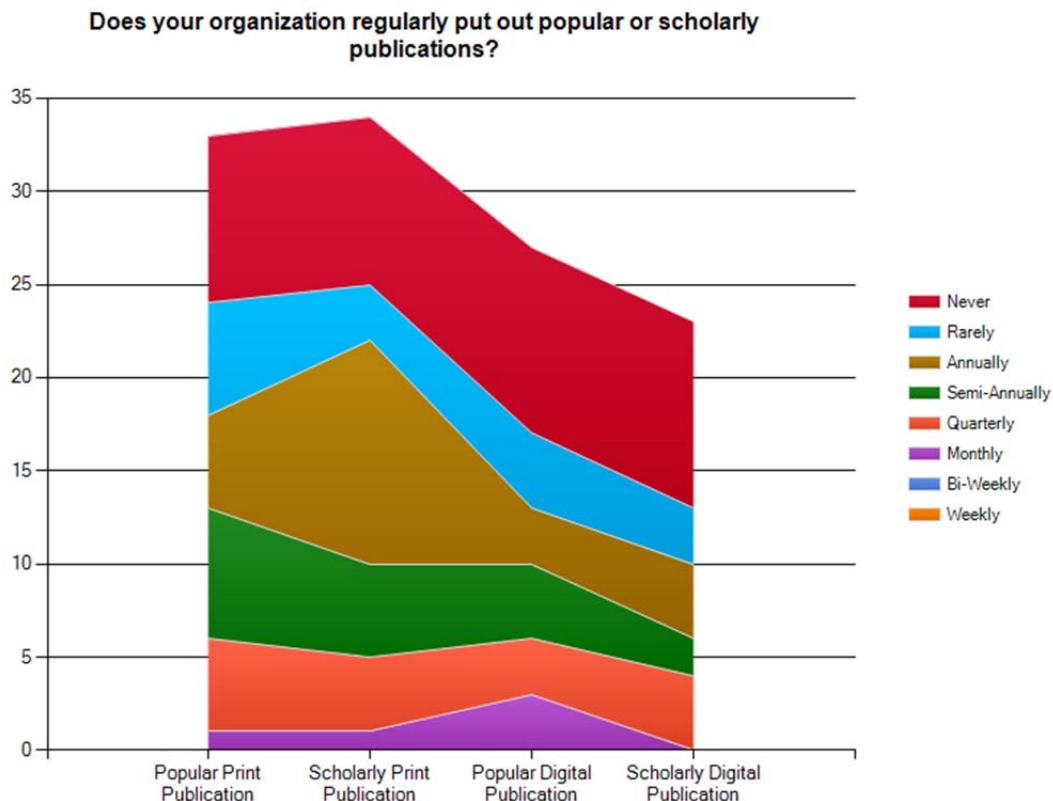


**FIGURE 23.** Graph indicating social sector responses to MHQ question #18 pertaining to the importance of public outreach as a whole, as well as the effectiveness of individual public outreach initiatives as viewed by respondent organizations.

the most effective tool are lectures and presentations, with two-thirds of respondents finding them to be very effective and an additional quarter rating them as effective, exceeding in total 90 percent of respondents. Community events and educational or training sessions are also on the whole deemed to be effective in reaching the public, though the latter are deemed far more effective when undertaken at the organization rather than on location. Together with digital publications and social media, these are also the initiatives in which the greatest number of social sector organizations decline to engage in. Finally, organizations note additional methods of outreach not presented as options to include the development of curricula and the operation of historic properties such as tall ships. These trends and the importance the social sector places on public outreach are echoed and reinforced in the comments submitted by respondents. What is particularly relevant here is that many of the respondent organizations tie the effectiveness of their public outreach efforts to their ability to successfully meet their mission and to having the financial ability to do so. A number of academic institutions, for example, noted that effective outreach is directly tied to successful recruitment of students.

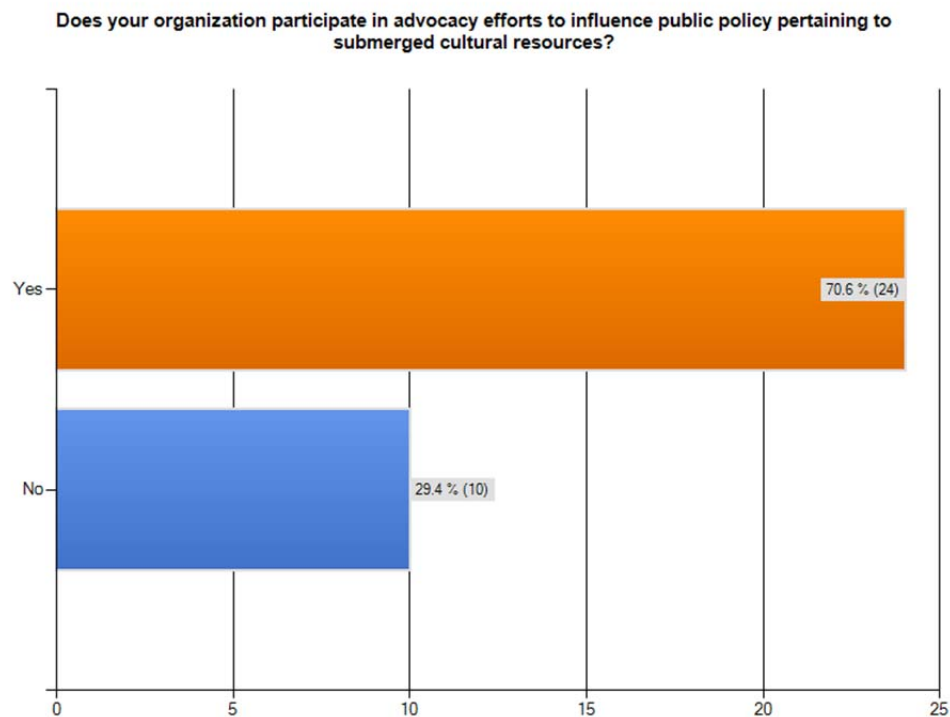
Social sector organizations place a greater emphasis on publications than their public sector counterparts (Figure 24). More than three-quarters of respondents engage in both popular and scholarly print publications. In the case of popular print publications, these are spread almost equally among the increments that span from quarterly to rarely. Scholarly publications are rather more infrequent, though the majority of respondents noted that they engage in such publications annually. Digital publications, both popular

and scholarly, are issued by fewer organizations and are also distributed across various time increments. It is not unreasonable to assume that, given the lower overall response rate for digital publications as compared to print publications, the proportion of organizations engaging in the former is even smaller than reflected in the submitted answers. Overall, however, the quantity of publications is notable, and, based on the associated comments, certain publications are considered by their issuing organizations to be both scholarly and popular in nature, thereby reaching an even wider audience.

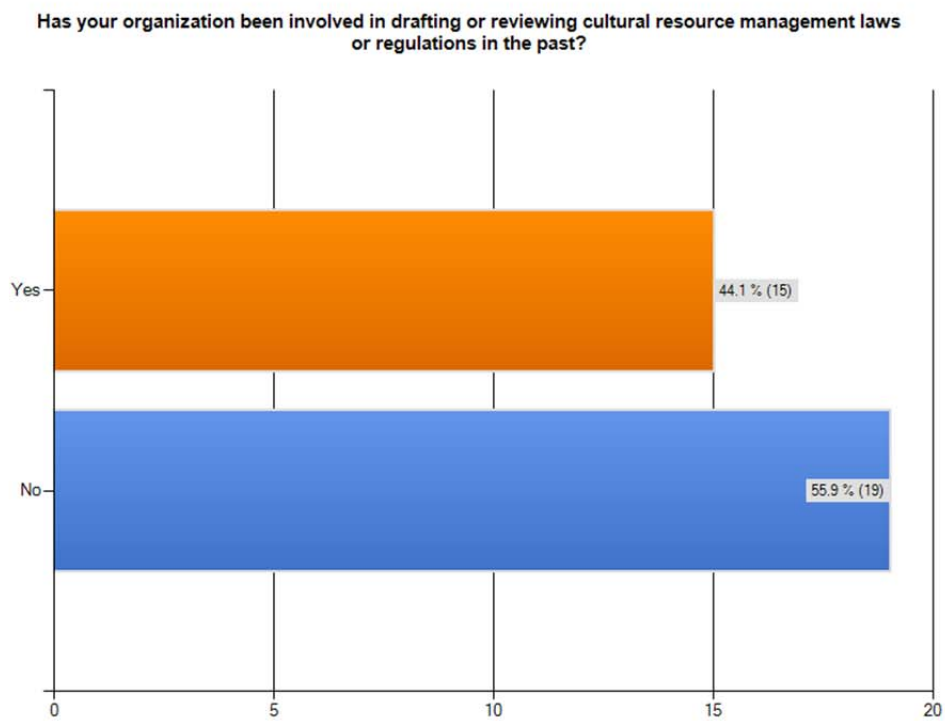
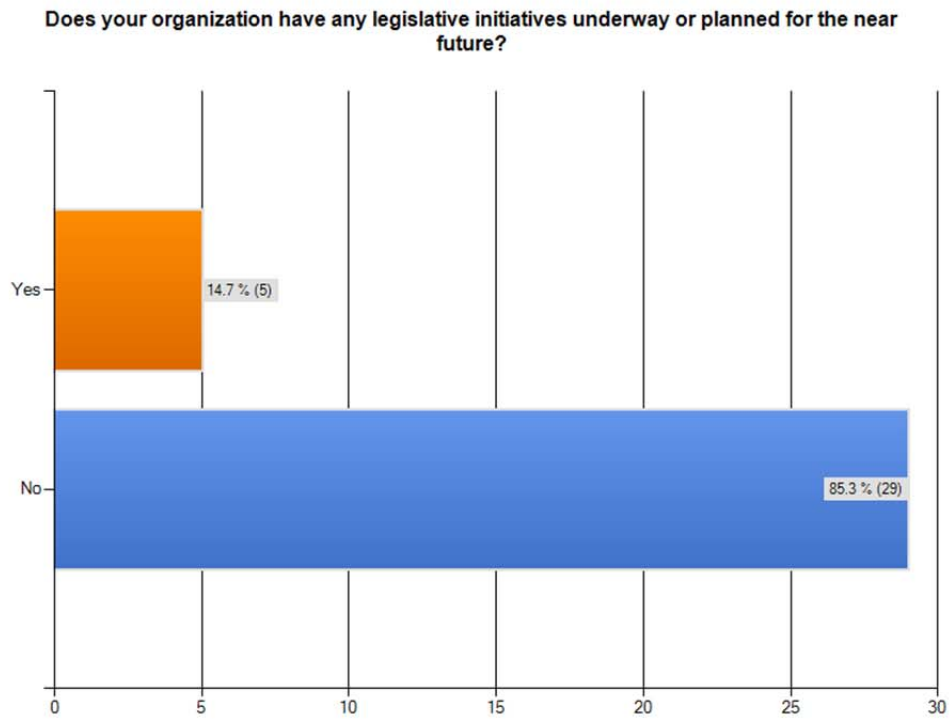


**FIGURE 24.** Graph indicating social sector responses to MHQ question #22 pertaining to the publication practices of respondent organizations.

Clearly exceeding the proportion of public sector organizations that participate in advocacy efforts, 70 percent of social sector organizations indicate that they attempt to influence public policy pertaining to submerged cultural resources (Figure 25). In this regard, the social sector represents a very vibrant community which is encouraging for the field as a whole. At the same time, however, 85 percent of respondents indicated that they do not have any legislative efforts underway or anticipated for the near future, leaving that arena to their public sector counterparts. The social sector's engaged role is



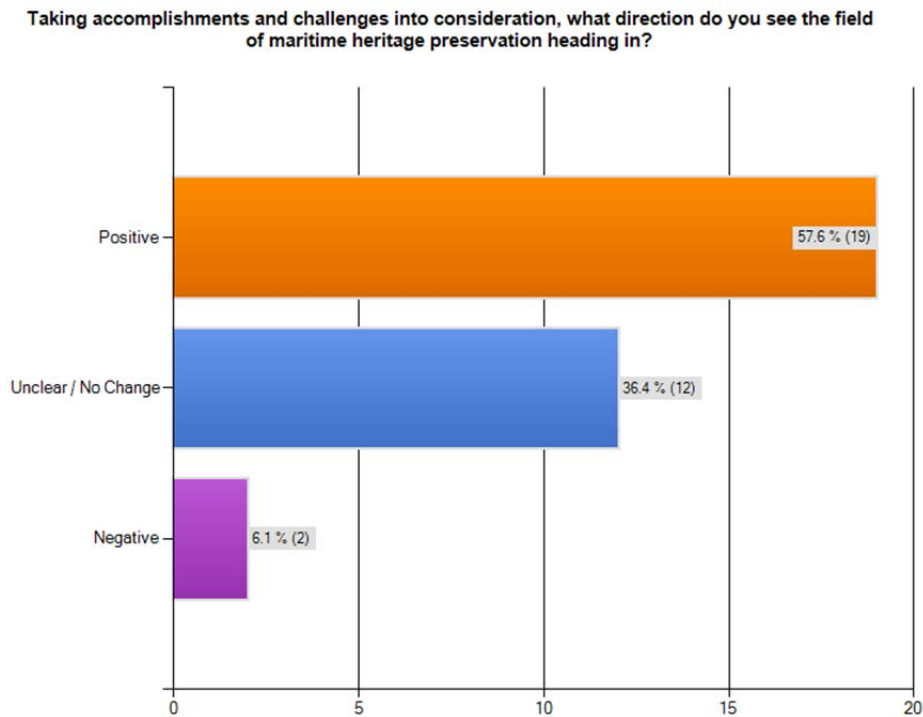
**FIGURE 25.** Series of graphs indicating social sector responses to MHQ questions #24, #25, and #26 pertaining to advocacy, legislative, and legislative review practices of respondent organizations.



**FIGURE 25.** *Continued.*

once more visible, however, when it comes to reviewing cultural resource management laws and regulations that have already been enacted. Here, nearly 45 percent of organizations indicated a positive response, well short of the nearly 90 percent of their public sector counterparts, but three times as many as social organizations preparing legislative initiatives. Respondents noted that such engagement spans from a continual education process to aggressive networking with federal and state legislators aimed at conveying the importance of maritime heritage and the necessity to protect it. Along the same lines, one organization described it as a matter of self-sustainment. Here too the international engagement of the social sector is visible, with respondents noting that, in addition to national laws and regulations, they have also assisted with guiding legislative efforts in Albania, Mozambique, and South Africa, participated in the development of the UNESCO Convention on the Protection of the Underwater Cultural Heritage, and have staff which serve as members of international organizations such as ICOMOS. A number of state institutions noted that they are restricted by state laws to engage in what would be considered campaigning, something echoed by non-profit organizations as far as being cautious that their efforts to educate are not viewed as lobbying, which under certain conditions could jeopardize an organization's 501(c)3 status (Internal Revenue Service 2012).

On the whole, when taking both challenges and accomplishments into consideration, more than half of social sector organizations responded that the field was heading in a positive direction (Figure 26). An additional third noted that they discerned no visible change, while a small minority perceived a negative overall trend.



**FIGURE 26.** Graph indicating social sector responses to MHQ question #30 pertaining to the overall direction of the field of maritime heritage preservation, as viewed by respondent organizations.

### ***Qualitative Data***

The open answer questions posed in the MHQ (#23, #27, #28, #29) received a series of responses through which a number of trends emerged. Regarding the primary submerged cultural resource management policy concerns or legislative gaps observed by the social sector, one of the most prominent issues shared by the majority of organizations is the continuing struggle with both the illegal and legal commercial salvage of archaeological sites and the illicit trade of antiquities. This is particularly the case in the international environment and within developing country contexts such as in southern Africa. Another

concern relating to this subject is the development of exhibits within otherwise credible museums that feature materials originating from commercially salvaged wrecks. A number of organizations praised the UNESCO Convention for the Protection of Underwater Cultural Heritage and encouraged its ratification by as many countries as possible, and the adoption of its Annex Rules. On the opposite end of the spectrum, several organizations criticized the interpretation that several authorities have placed on the “*in situ* preservation” principle expressed in the Convention. Permitting procedures have become considerably more restrictive, requiring the expenditure of significant resources during permit application processes. On this topic, one respondent noted a perception that the Convention was utilized through political maneuvering to stymie research. Another noted that misguided but well-meaning attempts to protect wrecks from disturbance will hinder the advancement of the discipline if future archaeologists are not afforded the opportunity to conduct field research. Discrepancies over jurisdiction in the EEZs of various nations are also reported as becoming an issue. The international application of the Convention is therefore a concern for a number of organizations that conduct research abroad; the issues expressed by respondents, however, are not solely extra-territorial.

Several respondents noted the inability of public sector organizations within the United States to both establish preservation policies and ensure that they are enforced. Lack of enforcement is a particularly common complaint among social sector organizations, who question the practices of local and state officials. Along these lines, one respondent observed that even if there is sufficient evidence against a violator,



District Attorneys deem historic preservation of submerged cultural resources to be frivolous and do not engage in prosecutions. A number of respondents noted that the root cause of the inability to adequately carry out legislatively mandated organizational missions and goals is the lack of staffing and funding. Funding cuts are understood as directly tied with a diminished ability to provide protection, oversight and management of archaeological sites. At the same time, development interests or commercial salvage firms are able to set the tone. A number of respondents identify this as a particular issue in Florida, though the review of state laws that preceded this Chapter suggests the same issue could challenge authorities elsewhere. In response, one organization, speaking specifically for the cases of Illinois and Indiana, suggests that more clearly defined laws that the recreational diving public could understand may lead to better respected mandates. In Ohio, mentions another, regulations only protect shipwrecks and aircraft sites; archaeological sites associated with the Battle of Lake Erie, the subject of the organization's research, are not protected. The ASA, in turn, observes a further respondent, has been significantly weakened by the various legal interpretations of embedded and abandoned, and a revision of the ASA aimed at meeting its original legislative intent would make a significant impact on preserving submerged cultural resources.

While legislative issues appear prominently in social sector responses to MHQ #23, a strong majority of organizations (26 of 34) noted that they had not been affected by any recent changes in legislation or regulations. Those that had been affected made reference to the UNESCO Convention and challenges faced by outside (non-native)

scholars when applying for research permits abroad. It was also noted by one respondent that the establishment of a National Marine Sanctuary had resulted in permitting regulations that increased the cost and time associated with undertaking research. Indicative of how states across the country share similar challenges, the Rhode Island Marine Archaeology Project re-affirmed what was observed by its state counterpart in the public sector and stressed that the failure of the ASA to protect *Brother Jonathan* resulted in resorting to the admiralty law of salvage in order to gain control over certain eighteenth-century vessels in need of protection. The organization reports that the federal judge agreed that archaeologists were generating intellectual property that was as valuable, if not more so, as the retrieval and sale of artifacts associated with traditional salvors. If the laws used by salvors are stronger than the anemic historic preservation laws, the organization argues, then it makes sense to resort to the former.

When discussing their most recent accomplishments or initiatives, social sector organizations concentrate on four main areas: the successful execution of surveys and excavations both in number and importance, the advancement of public outreach initiatives, the development of academic programs, and standardization in the areas of ethics and practices. The identification of numerous shipwrecks across the United States, Europe, the Mediterranean Sea, and the Black Sea is highlighted by a third of respondents, whether represented by a sole discovery or the 16 projects in 12 countries the Institute of Nautical Archaeology reports to have conducted or supported in 2011. A number of respondents also concentrate on the fact that the field is evolving and undertaking multi-disciplinary research, often in deep waters with technologies such as

AUVs that were previously not accessible to the non-commercial sector. Many of these complex projects are the result of extensive partnerships which may point the way forward. As an example, the Waitt Institute noted that the recent mapping of HMS *Titanic* it participated in included, among others, the Woods Hole Oceanographic Institution, the NPS and the NOAA. Alongside the increased partnering and multi-disciplinary collaboration, one organization noted the continued integration of maritime archaeology into archaeology in general as one of the field's most important recent accomplishments.

As far as public outreach initiatives are concerned, several organizations point to programs such as the Living Museums in the Sea, the Heritage Awareness Diving Seminar, the Submerged Sites Education & Archaeological Stewardship program, the Sport Diver Archaeology Management Program, and volunteer recruitment efforts as their most important recent accomplishments (see Florida Public Archaeology Network 2012b; Indiana University 2012a; South Carolina Institute of Archaeology and Anthropology 2010e). This trend further demonstrates the importance public education has for many organizations in the social sector, as these institutions elect to define their success through such initiatives. One organization points to the effects of such programs and notes the slow but steady increase in the public's realization of the importance of maritime heritage as one of the most important accomplishments of the field. The University of Maine attributes this in part to the increase in people educated at all levels of maritime studies. In fact, the education of future professionals and the development or strengthening of academic programs appears commonly within the university subset of

respondents. Whether it is the establishment of new programs such as at Coastal Carolina University, assessing positive educational outcomes for students at the University of Connecticut, or providing academic training to graduate students of the University of Miami on submerged cultural resource management, these organizations see such programs as among their most important achievements.

The final trend observable among social sector organizations when it comes to recent achievements is somewhat more diversified, yet held together by the concept that the wider distribution of ethics, standards, and practices is a positive development for the field. This is characterized by examples such as the broadening of support of the UNESCO Convention for the Protection of the Underwater Cultural Heritage and its Annex Rules, achieving the delay and possible cancellation of a controversial exhibit in the Smithsonian Institution based on commercially salvaged artifacts, nominating Submerged Cultural Resource Heritage Trails to the Marine Protected Areas program, illustrating common approaches through the *Oxford Handbook of Maritime Archaeology*, and arguing for the greater applicability of the ASA in a court case involving the 1830 Great Lakes “Dunkirk Schooner” (see Catsambis, et al. 2011; Smithsonian 2011; Toner 2011; UNESCO N.d.-b). Although in most cases each organization concentrated on only one of the above examples, together they illustrate a maturing of the field and therefore an ability to more effectively undertake other priorities such as public education.

When it comes to discussing the greatest challenges facing their organization and the field as a whole, social sector respondents overwhelmingly and consistently reported

problems with obtaining sufficient and sustainable funding for their operations. Twenty-seven of 33 organizations, over 80 percent of respondents, identified the issue as a significant challenge. Whether it is educational institutions that are shifting resources to the hard sciences and away from the humanities, unpredictability of state funding, fewer state grants, the inability to re-fill positions lost to attrition, the diminution of membership, or the very costly nature of operations themselves, the ability of social sector organizations to execute their core missions are significantly hindered. Historic vessels are abandoned, projects are not executed, staff on soft money must be let go, graduate assistantships are limited, highly specialized staff depart due to lack of support, curation of artifacts is jeopardized, and educational programs are not implemented. The challenge, one organization notes, is to remain relevant and collaborate with other disciplines in order to show the interdisciplinary nature of our work. Another organization cautions that cultural resources must be viewed as being of equal status to natural resources when such collaborations take place.

Almost a third of organizations recognize another challenge that is intimately tied to funding – the need to further educate the public on maritime heritage resource preservation and research. Nearly as many organizations note the difficulties in conveying the difference between looting or salvaging sites, commonly cited as treasure hunting, and the misperceptions that exist among the public. An associated issue is the continued blurring of the lines between compliance-based archaeology and commercial salvage. Overall, states one organization, we have not made a major impact on the public's perception. The inability of archaeologists to make their case to the public,

argues another, will only make this more of a challenge in the future. While a fairly bleak picture emerges in this regard, what is encouraging is the self-recognition that is evidenced by the responses of many organizations that public support is critical, and that more needs to be done to convey the message of maritime heritage preservation.

## **THE PRIVATE SECTOR: CULTURAL RESOURCE MANAGEMENT FIRMS**

### *Composition of Respondents*

Eighteen organizations representing the private sector responded to the MHQ, in what is seemingly a fairly homogenous group of respondents (Table 11). However, it is important to note that there are different types of organizations within the private sector involved with maritime heritage resources. A number of respondents represent larger engineering or environmental consulting companies that maintain a cultural resource management component (e.g., Atkins North America, U.R.S. Corporation). Some are geoscience companies which incorporate submerged cultural heritage units within them (e.g., Fugro Geoservices, Geoscience Earth & Marine Services). Others represent organizations focused on cultural resource management that either concentrate on maritime cultural heritage (e.g., Dolan Research, Tidewater Atlantic Research), or address maritime heritage resources as part of a broader spectrum of cultural resources (e.g., Panamerican Consultants, Southeastern Archaeological Research). When it comes to maritime heritage resources, some of these organizations are involved primarily in deep-water remote sensing surveys, while others undertake the full gamut of

**TABLE 11.** *List of Private Sector Organizations that Responded to the Maritime Heritage Questionnaire*

Category	Organization
Cultural Resource Management Firms OR Firms with a Cultural Resource Management Division	Atkins North America, Inc.
	C & C Technologies, Inc. GeoSciences Division
	Dolan Research, Inc.
	Fathom Research, LLC
	Fugro GeoServices, Inc.
	Geoscience Earth & Marine Services, Inc.
	L. A. Landry & Associates, Inc.
	Marine Surveys, LLC
	Mid-Atlantic Technology and Environmental Research, Inc. ( <i>Incomplete</i> )
	Panamerican Consultants, Inc.
	Plateau Archaeological Investigations, LLC
	R. Christopher Goodwin & Associates, Inc.
	South Eastern Archaeological Services, Inc.
	Southeastern Archaeological Research, Inc.
	SWCA Environmental Consultants, Cultural Resources
Tesla Offshore, LLC	
Tidewater Atlantic Research, Inc.	
URS Corporation	

archaeological and historic preservation services – from permitting compliance, to Phase I - Phase III investigations, and even conservation of recovered artifacts. While there is a far greater number of private sector organizations that are engaged in some form of historic preservation activity, the MHQ respondents represent a large portion of those

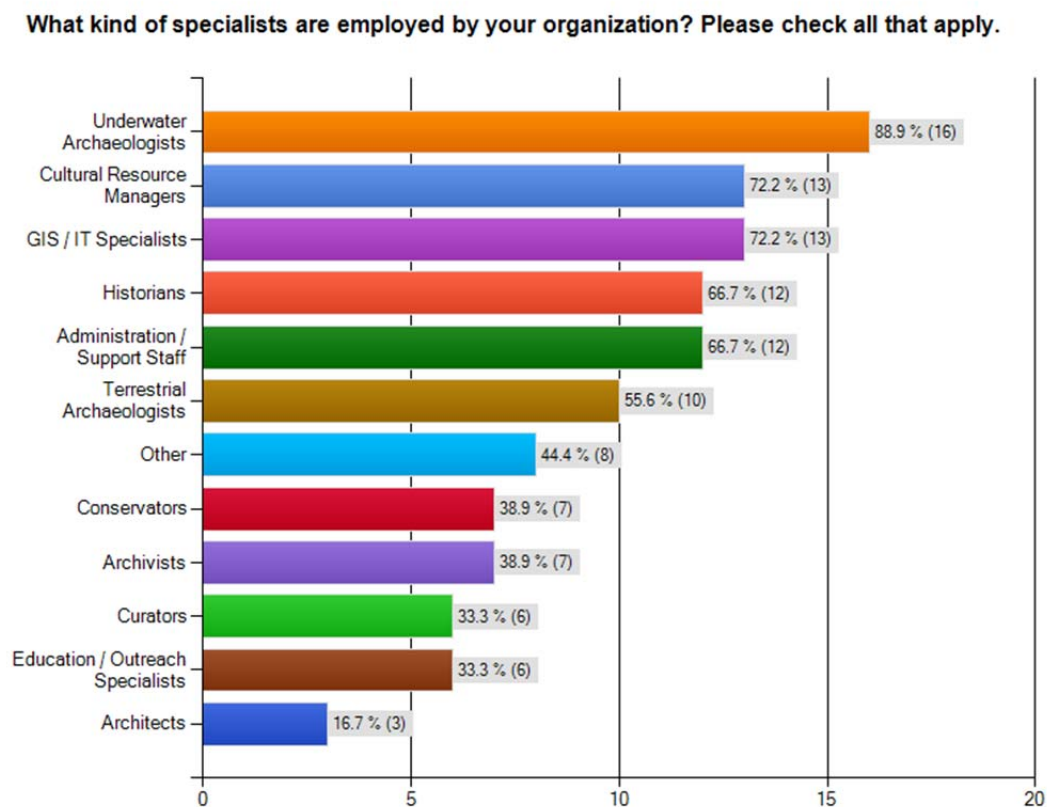
private companies that address maritime heritage resources as part of their regular operations. Such operations extend nationwide, to the far reaches of the EEZ, and to the international arena.

### *Quantitative Data*

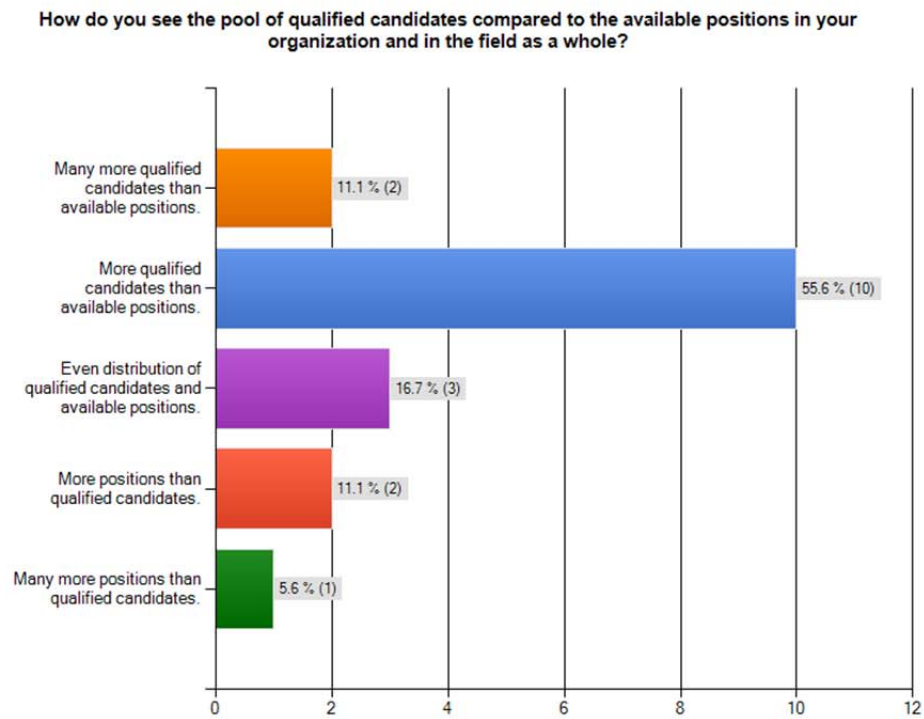
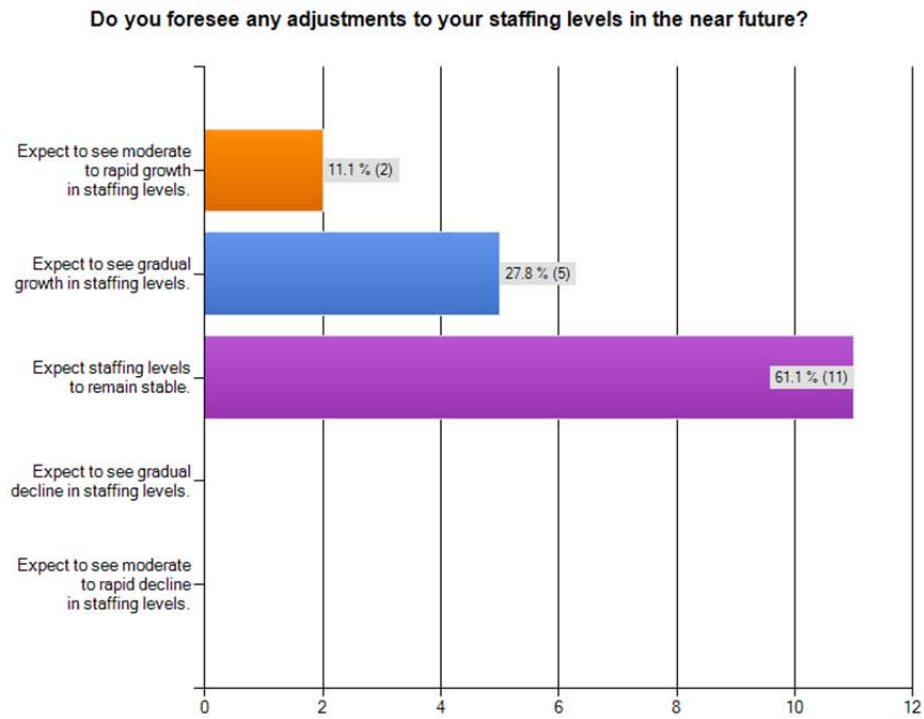
As per private sector responses to MHQ #8, half of private sector organizations operate with a permanent staff of 1-3, a small percentage with a permanent staff of 4-6, while a third of them carry more than 10 permanent staff members. A little more than half also include between 1-3 and 4-6 contractors, allocated equally between the categories, while most of the rest do not support contractors as part of their regular staff. The vast majority, approaching 90 percent, employ underwater archaeologists, while nearly three-quarters also include cultural resource managers and GIS or IT specialists (Figure 27). More than half include terrestrial archaeologists and historians, and, in an indication of the small-scale nature of some of the companies, a third of them do not employ administrative or support staff. More than a third support conservators and archivists, while slightly fewer also include curators and educational outreach professionals among their staff; this variety indicates the broad variety of services companies in the private sector provide. In what appears to be a notable departure from the public sector, and even a more optimistic assessment than the social sector, no private sector organizations expect to see a decline in staffing levels in the near future. In fact, while the majority of organizations foresee staffing levels to remain stable, nearly 30 percent see a gradual increase on the horizon, and 10 percent note a moderate to rapid growth in staffing



requirements. Equally notable is that while more than half of organizations believe there is a larger number of qualified candidates than positions, the percentage of those organizations that sees a significant inequality drops to only 10 percent. More than 40 percent of both social sector and public sector organizations share this perception. More private sector organizations see an even distribution of candidates to positions than their



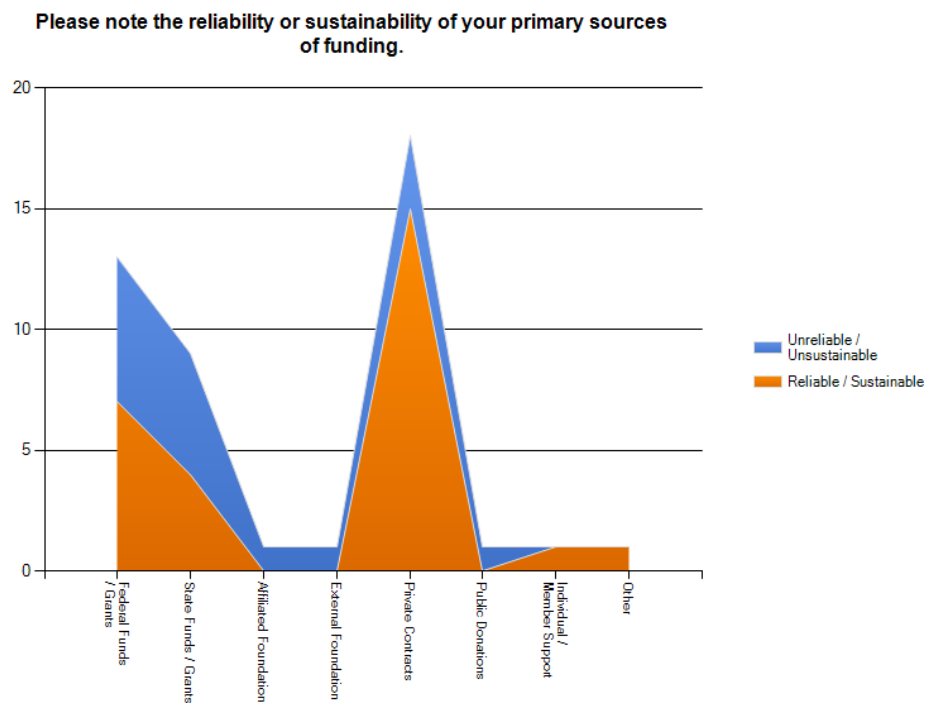
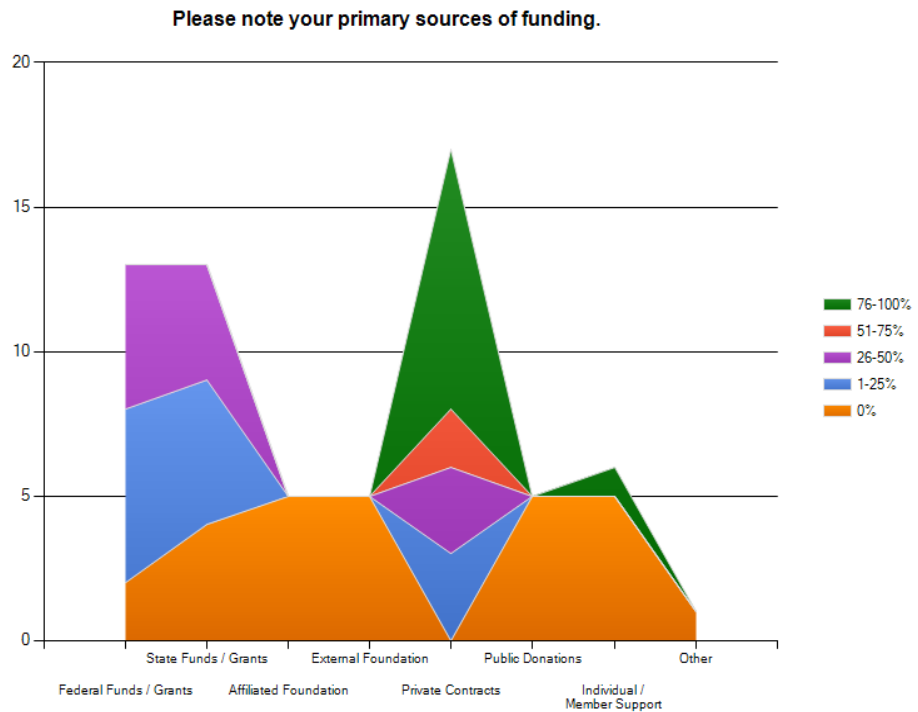
**FIGURE 27.** Series of graphs indicating private sector responses to MHQ questions #10, #11, and #12 pertaining to staff specialties and staff levels within respondent organizations, and the overall balance between available positions and qualified candidates.



**FIGURE 27.** *Continued.*

colleagues in either of the other sectors, while, similar to social sector organizations, a minority sees the scale skewed to favor more available positions.

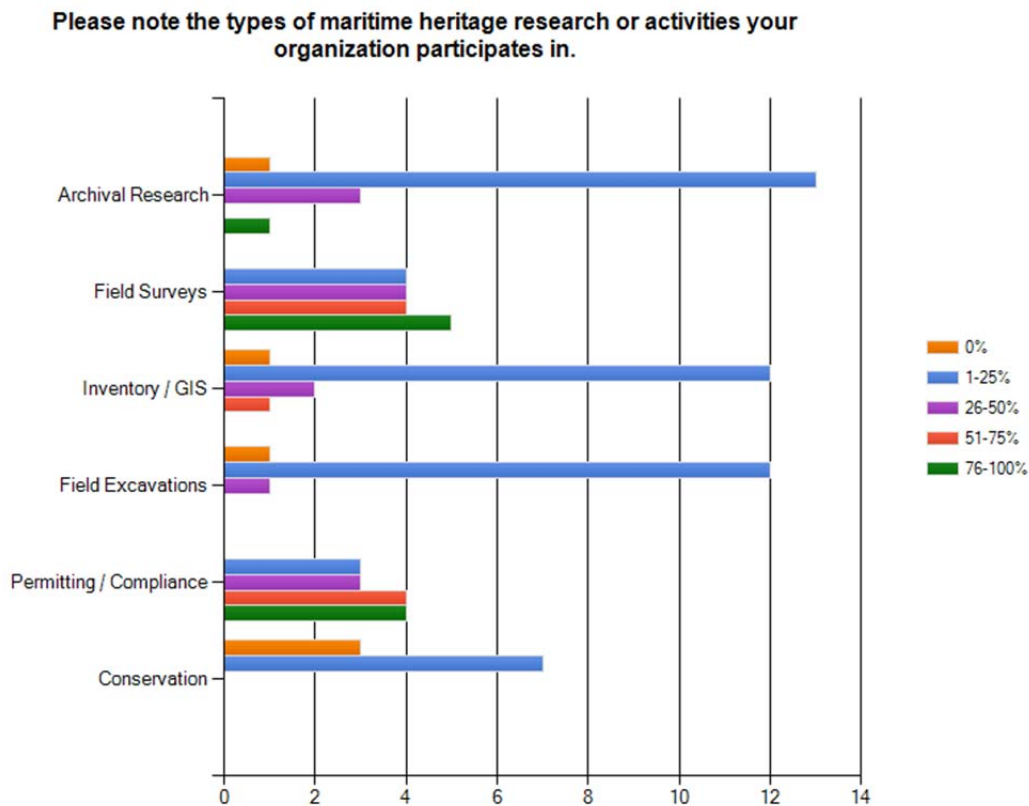
When it comes to funding sources, the private sector demonstrates a heavier reliance on fewer avenues (Figure 28). More than half of the total number of respondents indicated a small to moderate dependence on federal funding, and slightly fewer (15 percent) on state funds, which in both cases likely represents a greater number of awarded contracts than grants. On the other hand, no private sector organization depends on funds originating from affiliated foundations, external foundations, or public donations to any degree. Instead, funding streams are heavily skewed towards private contracts; for half of the respondents, this source represents over three-quarters of their income while for an additional 10 percent the proportion of private contracts represents more than half of their funding stream. The remaining third also relies on private contracts to a smaller degree, spread across the spectrum of remaining available answers. When it comes to assessing reliability, these private contracts are deemed to be more than 80 percent reliable or sustainable, compared to the slightly over 50 percent reliability attributed to federal funds, and the less than 50 percent reliability associated with state funds. One organization noted that the national trend towards the utilization of small businesses on federal Indefinite Delivery / Indefinite Quantity contracts has shifted the bulk of funding to private sector contracts.



**FIGURE 28.** Series of graphs indicating private sector responses to MHQ questions #13 and #14 pertaining to the primary sources and reliability of funding available to respondent organizations.

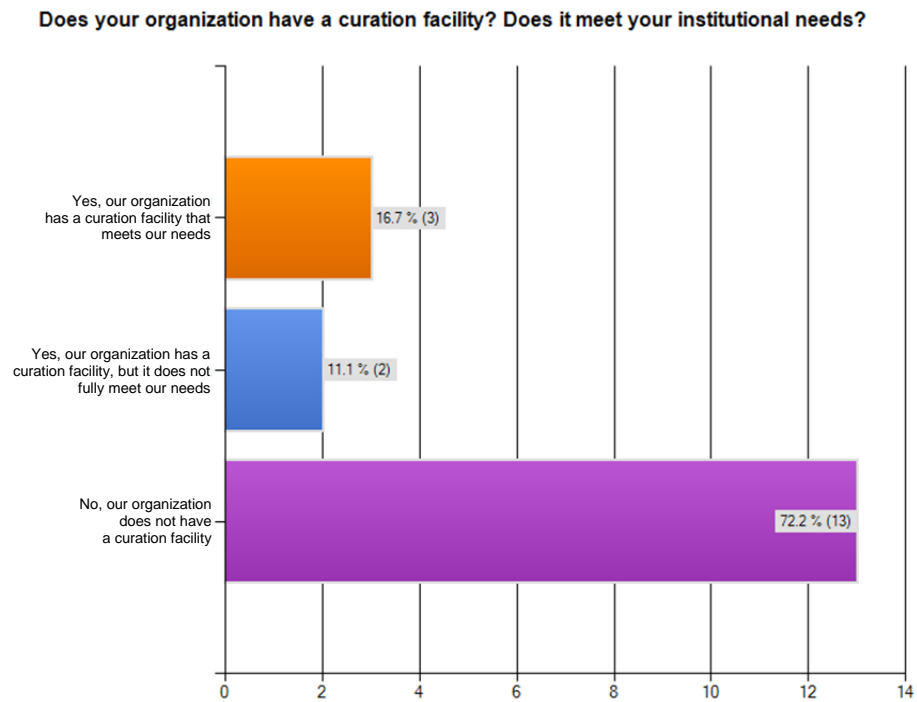
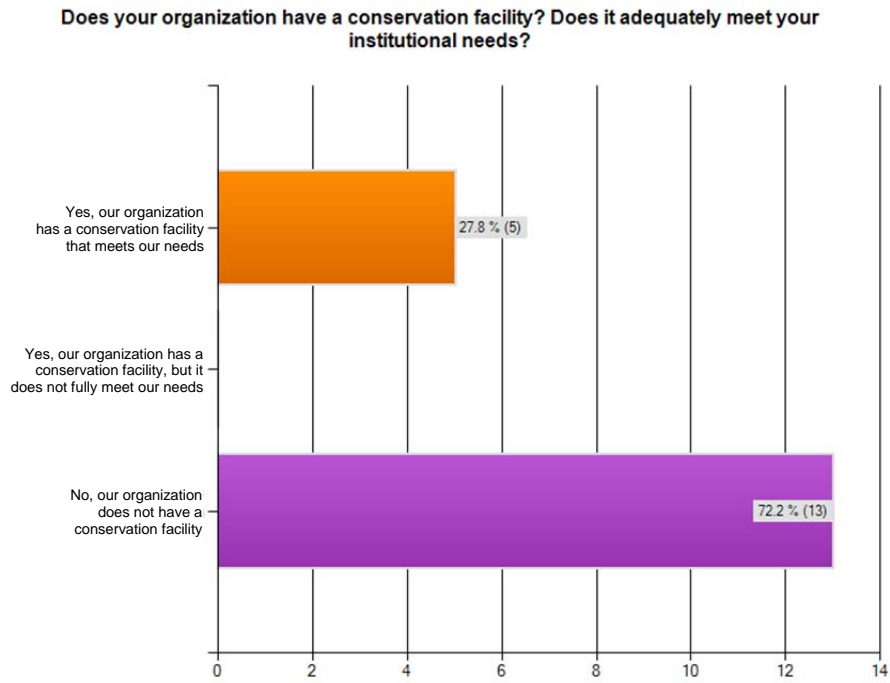
As far as the type of maritime heritage research and activities that private sector organizations engage in, responses are fairly diverse, exceeding as a whole the spectrum of activities that public sector organizations participate in, though more heavily concentrating in certain areas than their social sector counterparts (Figure 29). Nearly three-quarters of respondents indicated that they engage in archival research, though this activity generally occupies less than a quarter of their time. The results are similar when considering inventory or GIS activities, field excavations, and, to a lesser degree, conservation. In these areas there appears to be broad engagement, though less investment in time than permitting and compliance or field surveys, which according to responses are the primary functions of private sector organizations. Both areas share a similar distribution of responses, with between a fifth and a quarter of respondents falling in line within each category of time allocation. Approximately 60 percent of organizations dedicate more than half their time to either field surveys or permitting and compliance activities, with nearly 30 percent dedicating the bulk of their efforts to each.

While nearly 70 percent of organizations indicated that they participate in conservation-related activities, more than 70 percent indicated that they do not maintain a conservation laboratory (Figures 29 and 30). The remaining organizations support laboratories that meet their needs, and one would also assume at least in part the needs of their partner private sector organizations. A similar distribution is visible in responses pertaining to the availability of curation facilities among the sector (Figure 30). Nearly three-quarters of organizations do not maintain curation facilities, whereas the remaining



**FIGURE 29.** Graph indicating private sector responses to MHQ question #15 pertaining to the scope of research or other activities performed by respondent organization.

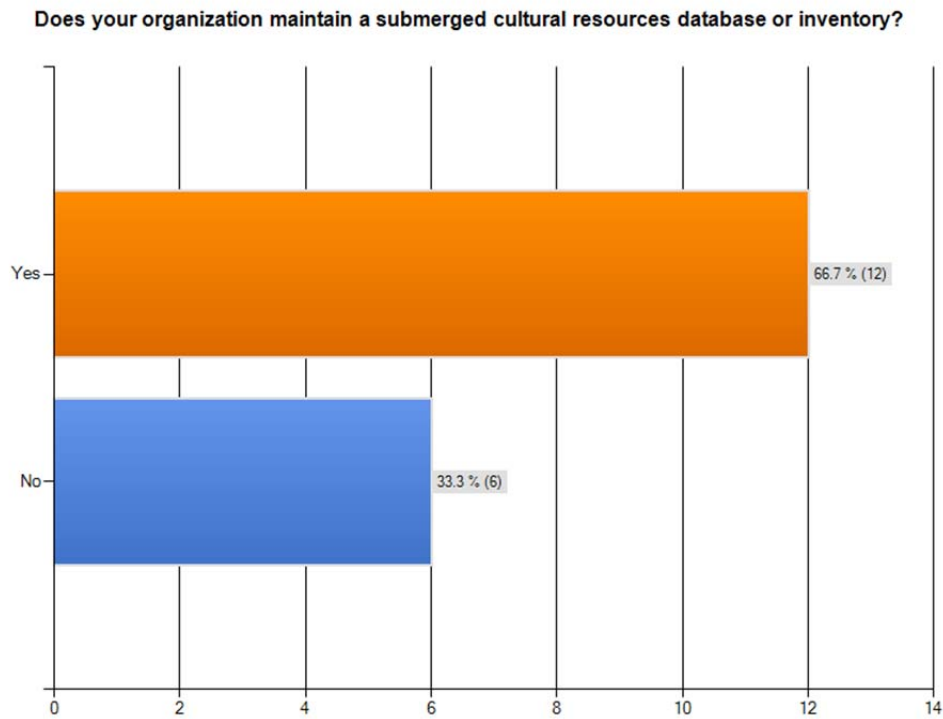
quarter supports facilities that meet their needs only half the time. One organization noted that certain office locations maintained curation facilities while others did not. Overall, however, it appears and was noted by respondents that when artifacts require curation, they are returned to public sector agencies.



**FIGURE 30.** Series of graphs indicating private sector responses to MHQ questions #16 and #17 pertaining to the maintenance of a conservation or curation facility by respondent organizations.

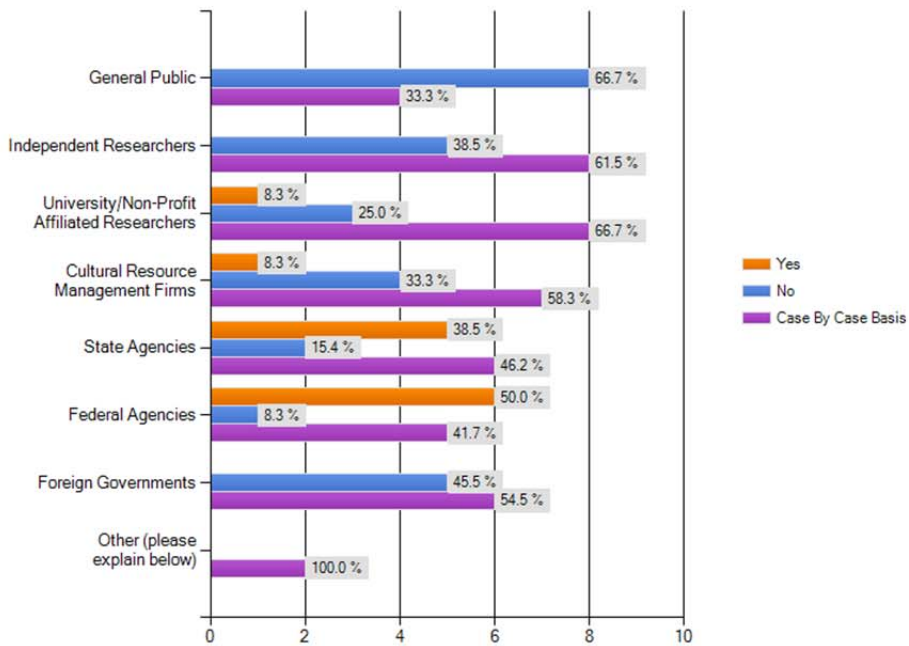
Two-thirds of respondents indicated that they maintain their own submerged cultural resource inventory, a response rate that places the private sector squarely between the public and social sectors (Figure 31). Unlike representatives of the other two sectors, nearly 85 percent of private sector organizations have not partnered with independent researchers, universities, non-profit organizations, or foreign governments in developing their inventories. Nearly two-thirds have not partnered with other cultural resource management firms, as might be expected given the nature of their institutional relationships, while almost as many have not collaborated with state agencies in enhancing their databases. Only in the case of federal agencies is there a slight majority in the number of private sector organizations that have partnered to further develop their databases, as opposed to the number that have not. This more independent approach, which to a certain degree must be attributed to the proprietary nature of the data that are collected on behalf of clients, is also demonstrated in the case of database access policies. In the only firm indication of sector-wide policy, members of the general public are not granted access to database information by two-thirds of private sector organizations. Federal agencies are as a matter of course given access to database information by half of respondents, followed by state agencies, which are granted access as a matter of policy by nearly 40 percent of organizations. It is worth noting that, in the



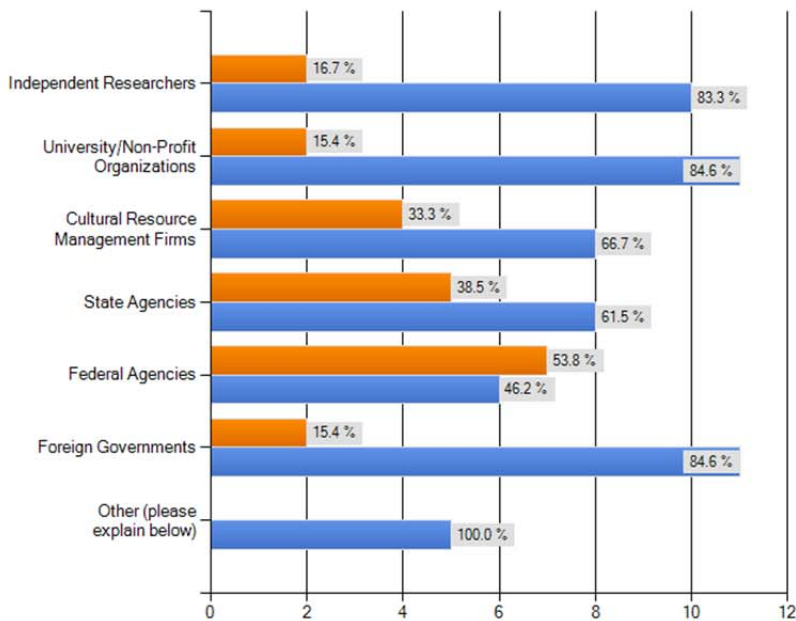


**FIGURE 31.** Series of graphs indicating private sector responses to MHQ questions #19, #20, and #21 pertaining to the maintenance of submerged cultural resource databases by respondent organizations, as well as to their development, and access policies.

**If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**



**If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

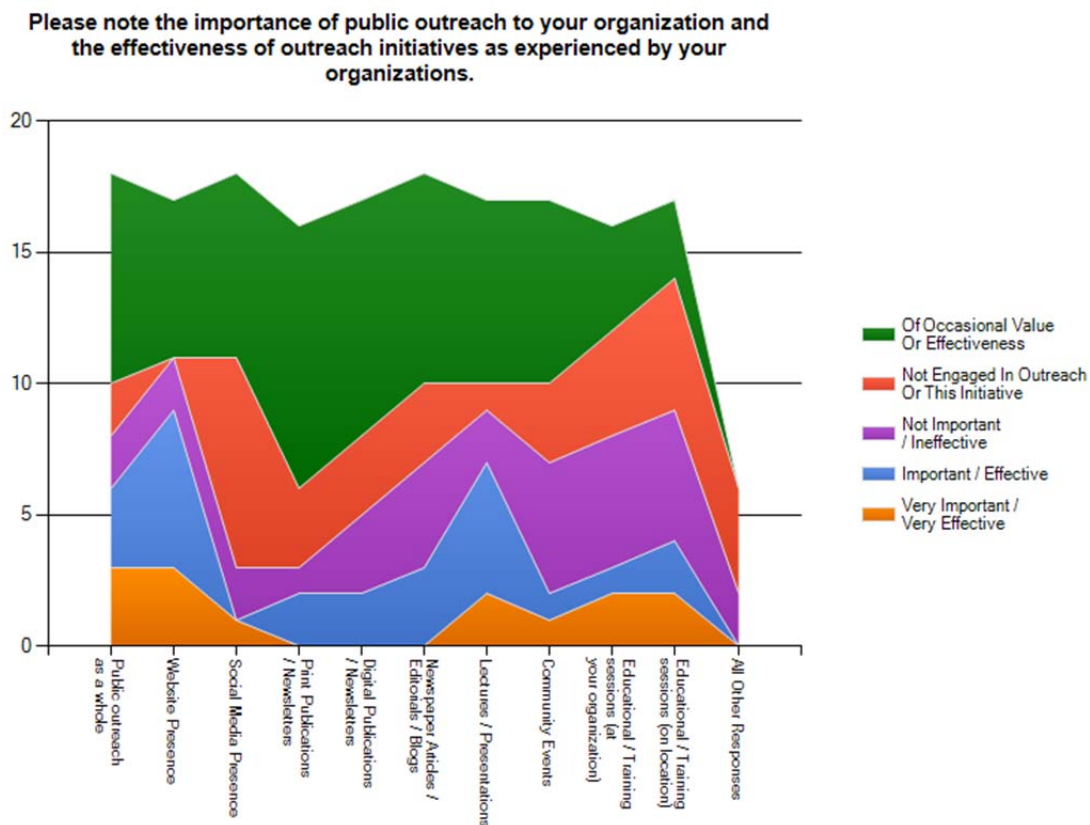


**FIGURE 31.** *Continued.*

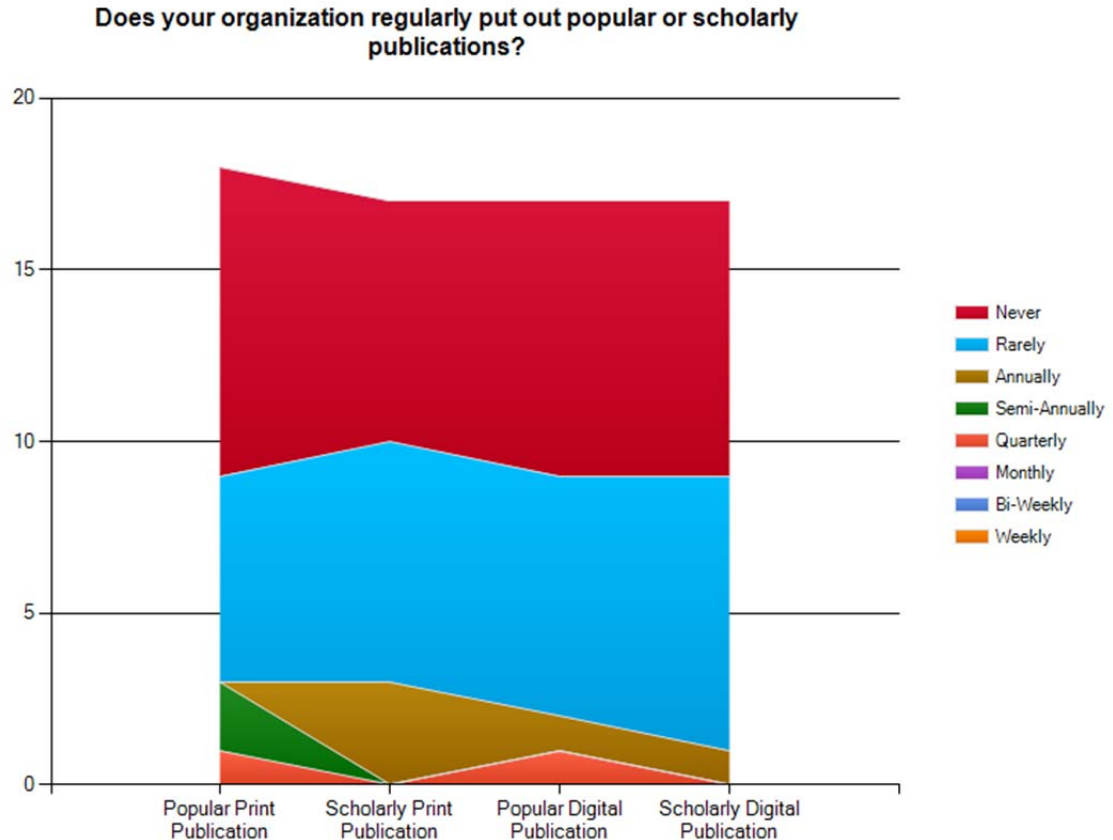
case of state agencies, a larger percentage of private sector respondents judge access privileges on a case-by-case basis, while 15 percent do not share their data with these public sector institutions. Even in the case of the private sector, access is determined on a case-by-case basis more times than not, though in a third of instances database information is not shared.

Public and social sector organizations rely on outreach efforts to engage with the public, a public that in one way or another serves as their primary means of funding. In the case of private sector organizations, as noted by one respondent, public outreach may be interpreted as effective marketing strategies that succeed in reaching prospective clients. This does not cover the full breadth of reasons why private sector organizations engage in outreach efforts, and may not represent the perspective of other respondents in selecting their answers regarding public outreach effectiveness. It is, however, worth noting as it may aid in interpreting the data presented below (Figure 32). Overall, nearly half of organizations find public outreach to be of occasional value, and another 20 percent either deem it as unimportant or do not engage in outreach initiatives. Even though only a third of organizations deem outreach on the whole to be important or very important, over half place the same value on their website presence, possibly due to the fact that a website is both an outreach tool that benefits public education at large, and a direct aid for client recruitment. Among the remaining outreach initiatives, only lectures and presentations carry a positive balance of respondents, as the majority of organizations do not engage in social media and find that print publications, digital publications, newspaper articles, and community events are only of occasional

effectiveness. Education and training sessions, regardless of location, are deemed to be ineffective. Private sector organizations also do not as a whole appear to place much emphasis on scholarly or popular publications (Figure 33). Between 80 and 90 percent of respondents indicate that they either rarely or never issue either, whether in print or digital form. The few organizations that do publish their own issues typically do so infrequently, and in print.



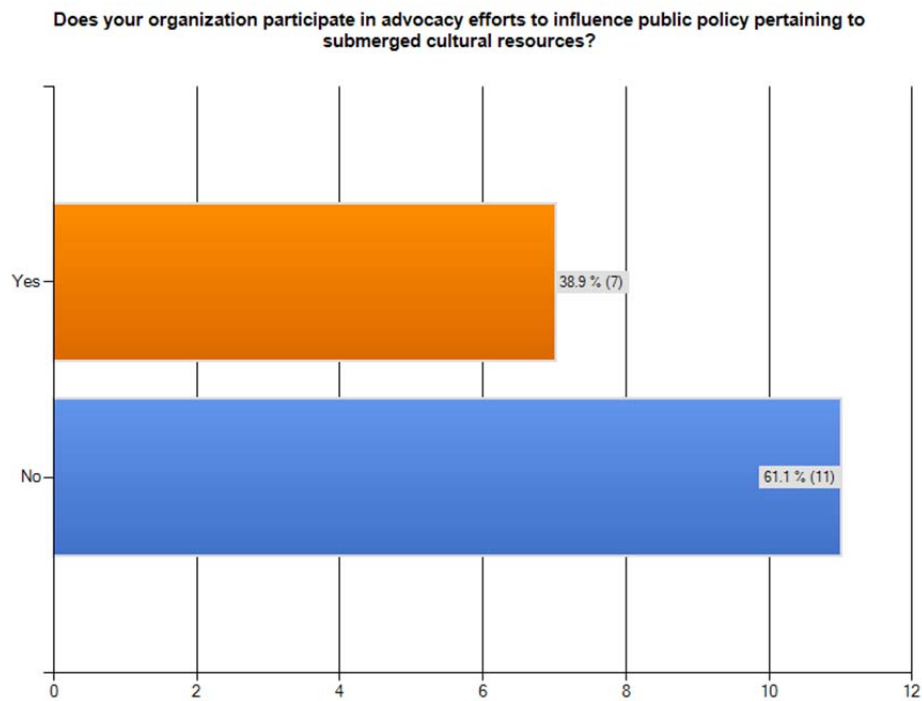
**FIGURE 32.** Graph indicating private sector responses to MHQ question #18 pertaining to the importance of public outreach as a whole, as well as the effectiveness of individual public outreach initiatives as viewed by respondent organizations.



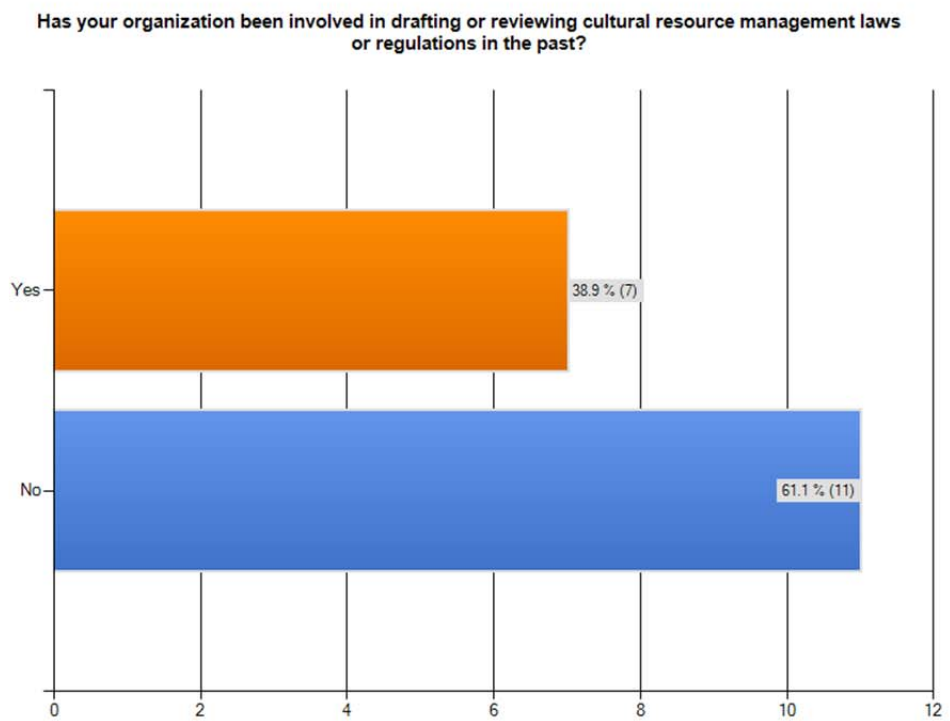
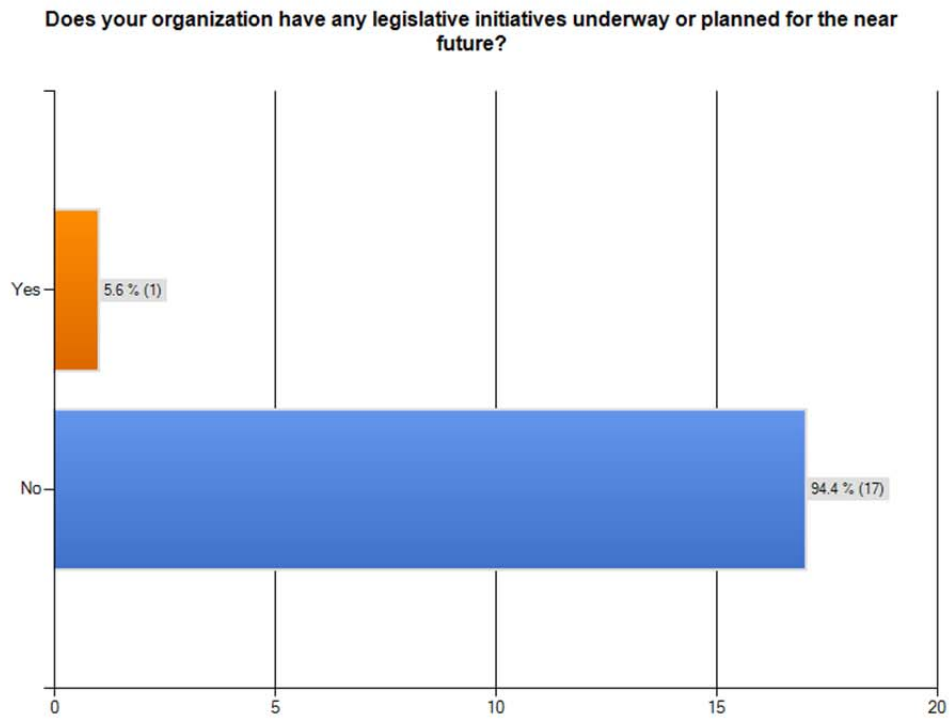
**FIGURE 33.** Graph indicating private sector responses to MHQ question #22 pertaining to the publication practices of respondent organizations.

The private sector falls slightly short of the public sector when it comes to advocacy efforts as only about 40 percent of respondents noted that they attempted to influence public policy (Figure 34). The social sector, it is worth remembering, by far exceeds both with 70 percent of respondents participating in advocacy efforts. All but one respondent do not have legislative initiatives underway or planned for the near future, though nearly 40 percent have been involved in reviewing cultural resource management

laws or regulations in the past. Based on comments provided by respondents, the majority of the organizations that have provided input in this regard have done so in the case of Notice to Lessees and Operators issued by the BOEM, though several have reviewed and commented on federal laws such as the ASA or state regulations (e.g., Massachusetts). The overall involvement rate compares with the nearly 45 percent of social organizations that have done the same, though both are overshadowed by the nearly 90 percent of public sector organizations that have been involved in drafting or reviewing laws and regulations.

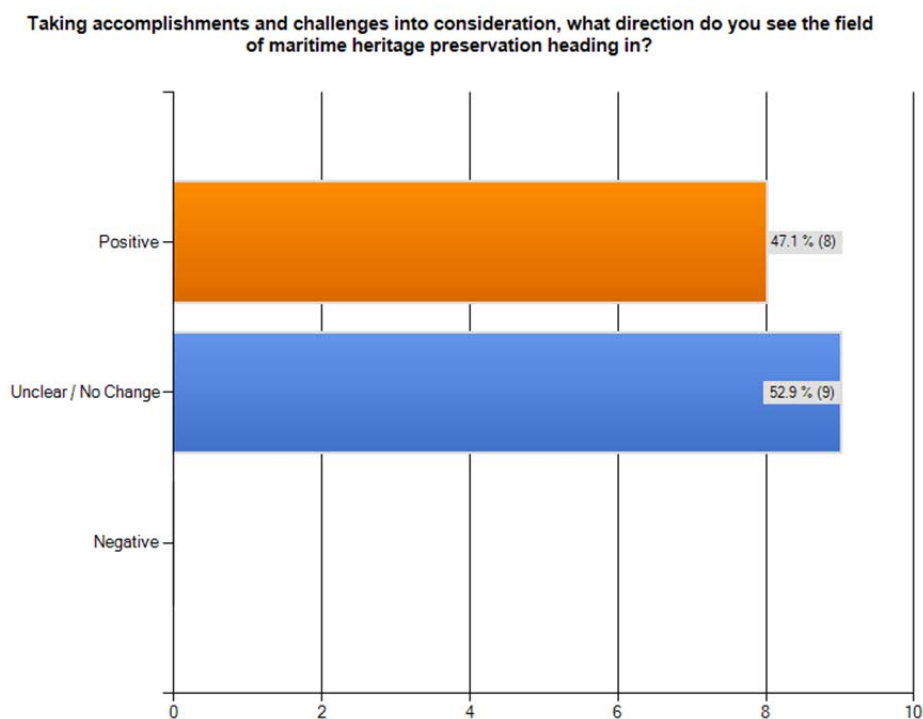


**FIGURE 34.** Series of graphs indicating private sector responses to MHQ questions #24, #25, and #26 pertaining to advocacy, legislative, and legislative review practices of respondent organizations.



**FIGURE 34.** *Continued.*

On the whole, private sector organizations present a more measured but cautiously optimistic view of the future of the field as nearly half indicated that the field was heading in a positive direction and just over half saw no discernible trend (Figure 35). While the social and public sectors included a greater majority of organizations that deemed the field was heading in a positive direction, unlike in the case of the former, no private sector respondents viewed the trend to be negative.



**FIGURE 35.** Graph indicating private sector responses to MHQ question #30 pertaining to the overall direction of the field of maritime heritage preservation, as viewed by respondent organizations.



### *Qualitative Data*

Private sector organizations on the whole provided dynamic answers to the MHQ's open-ended questions, in the process identifying commonly held perceptions as far as both accomplishments and challenges facing the field of maritime heritage preservation. In regards to their main submerged cultural resource management policy concerns or observed legislative gaps, answers concentrated on legislation, standards, and qualifications. There is a general understanding that "Section 106" is the main driver of archaeological investigations. As a result, a number of comments concentrated on concerns regarding its application. One respondent expressed apprehension that, with the decrease in federal funding to federal agencies such as the U.S. Army Corps of Engineers, an increased number of federal projects would be permitted under emergency declarations, thereby not requiring adherence to the "Section 106" process. Another respondent, aspiring to a greater number of qualified marine archaeologists being hired in public sector organizations in order to develop state guidelines, noted that the level of "Section 106" enforcement seems to vary significantly from state to state. The need for public sector personnel adequately experienced in submerged cultural resource management is echoed by more than one respondent. The same holds true among organizations expressing the need for guidelines and a clear definition of archaeological survey requirements. One respondent noted a need for viable regulations regarding archaeological survey requirements in the Gulf of Mexico and the Alaskan OCS. Another organization expressed a desire to see homogeneous marine remote-sensing survey standards for submerged cultural resources across all states and regions. The

BOEM stands as the only example cited for having published minimum standards for marine archaeological identification surveys, as well as providing a geographically comprehensive framework for conducting archaeological work. While certain states have issued survey standards (e.g., Alabama, Texas), the perception that only a few public sector institutions have clearly delineated requirements is an important one to note. There is an accompanying perception that public sector organizations do not always place the necessary value on inundated sites as they do on their terrestrial counterparts. Perhaps this impression is supported by the weak legislative framework that applies to submerged cultural resources located in federal OCS waters, where a number of private sector organizations operate. Respondents point out that, while shipwrecks may be considered through “Section 106” when it comes to permitted activities, once sites are identified and the permitted activities have gone forward (most of the time simply avoiding historic sites), no other protective measures apply to these resources. One respondent noted that these sites are technically “owned” by the federal government, but not “owned” at the same time. On the same subject, another observed that ARPA explicitly excludes the OCS from its jurisdiction. Beyond the legislative framework, one organization replied, there is a failure to explain the value of underwater cultural heritage to contractors, industry, and ROV pilots with whom the private sector regularly works on a daily basis.

When discussing whether private sector organizations have been affected by any recent changes or regulations pertaining to maritime heritage, a moderate number, eight respondents, indicated that they had not. More than half, however, noted the BOEM’s

updated guidelines issued in March 2011 regarding archaeological offshore surveys and pre-seabed disturbance mitigation (see U.S. Department of the Interior 2011d). Response among this group of organizations was very favorable as a far greater number of lease areas in the Gulf of Mexico now require an archaeological assessment, noticeably increasing the workload of private sector organizations involved in this arena. For some organizations not involved in offshore archaeological investigations, however, recent legislative cutbacks to preservation funding appear to have greatly limited their fieldwork operations.

In addressing MHQ #28 pertaining to the most important recent and planned initiatives of organizations or the field as a whole, private sector responses centered on four separate but inter-related areas. A fair proportion responded through identifying recent important archaeological investigations or initiatives they had been a part of, such as the discovery of what may be the earliest sailing canal boat in the Hudson River, the USS *Scorpion* project, surveys off the Oregon coast, and the identification of the first two blockade runners to be found in Florida (see, for example, Mitchell 2009; Naval History & Heritage Command 2011). Even more drew attention to recent advances in archaeological methodology and interpretation brought about by technological developments in remote-sensing capabilities. The increased use of AUVs in offshore surveys has increased data quality, data collection efficiency, as well as data coverage due to decreased survey time. Leaps in marine magnetic surveys, when it comes to archaeological interpretation of sites, are also noted as significant improvements. Overall, this technological progress has enabled archaeologists to discover more sites

and allowed for a level of remote assessment not previously possible. As a result of these more capable tools, the types of sites archaeologists are able to locate and assess have expanded. The third area private sector respondents focused on is the increased awareness and active research on submerged settlements, and the call for certain federal and state agencies to actively prospect for, identify, analyze, and quantify submerged prehistoric sites. The final concentration of responses centers on the notion that work conducted by private sector organizations illustrates the potential significance and importance of maritime archaeology given that these organizations are often engaged in interdisciplinary surveys that permit the use of advanced and costly technologies not always available to the two other sectors. Public outreach, in this regard, is not only aimed at the general citizenry, but focused on private industry personnel. Two organizations noted that among their most important recent accomplishments was the development of the Submerged Nautical Archaeology Orientation and Operations Program, a series of two classes designed to specifically to train ROV operators and project managers. Recent sessions at the 2011 Offshore Technology Conference also enhance such efforts, while involvement in the creation of a maritime archaeological preserve in Florida surrounding the site of USS *Narcissus* directly engages with the general public (see Florida Bureau of Archaeological Research 2011; Offshore Technology Conference 2011). These four areas of perceived accomplishments demonstrate that private sector organizations are closely tied to their colleagues in the public and social sectors in terms of overall values, a concept illustrated by one organization's initiative to adopt the Annex Rules of the UNESCO Convention for the

Protection of the Underwater Cultural Heritage as its guiding document in underwater archaeology.

Similarities extend to responses to MHQ #29 which required organizations to identify challenges facing their organization and the field as a whole. Here, private sector respondents echoed their public and social sector colleagues and noted funding as one of their most prominent issues. One organization observed that locating consistent sources of funding is becoming a challenge in a market where the number of trained professionals, competing for the same funds, is steadily growing. The problem is further complicated by what is described as a “disastrous economy” by a fellow respondent. A number of respondents observed that both federal and state agencies have reduced funding available either through grants or to projects associated with “Section 106” compliance. To face this shortfall, another organization now draws only half of its revenue from underwater archaeological projects; the other half originates from other types of remote-sensing projects such as bottom clearance surveys, identification of submerged utilities, location of unexploded ordnance, and remote pipeline inspections. Offshore survey companies specifically note a difficulty in securing funding to conduct additional research on sites once they have been identified through remote-sensing data; the most cost-effective plan of action for their clients is often to simply avoid the historic site rather than to opt for further data collection. In the case of one organization, nearly all funding received for additional archaeological study comes from the federal government. Given the decline in federal grants generally observed, there is growing

concern among private sector organizations over the very limited protection afforded to cultural resources in federal waters.

The other prominent challenge facing private sector organizations pertains to staffing, though here opinions vary. On one end of the spectrum, one organization notes that staffing is becoming more of an issue in that there are fewer jobs every year for a growing number of graduates entering the field. On the other end, several organizations noted that there are not enough qualified maritime archaeologists in the field to fill the available positions; poignantly, one observed, there may be people looking for a job, but they are not qualified. Support for this position is expressed in no uncertain terms by another organization expressing that virtually no one coming out of undergraduate or graduate schools is adequately educated or trained to do the job in the private sector. Specifically, the respondent continues, there is a lack of courses available to students in cultural resource management law, marine remote sensing, technical writing, and technical diving. These areas where training is lacking were seconded by another organization, while a third noted that students are not learning what they need to learn in order to assist in pushing the field forward. This opinion is particularly prevalent among organizations that survey offshore, and the situation is viewed as a lost opportunity for growth at a time when there is increasing acceptance by members of the oil and gas industry of the role of maritime archaeologists. The disjoint is further stressed by another organization that states that the overwhelming majority of marine archaeological research performed in the country is related to compliance-driven work; yet most in academia do not acknowledge the value of this work to the degree it deserves.

## CHAPTER IV

### A STATE OF THE FIELD ASSESSMENT

#### **THE LEGAL PRESERVATION FRAMEWORK AS A WHOLE**

The legal framework surrounding the preservation of coastal and submerged cultural heritage resources in the United States is complex, multi-faceted, and lacks cohesion. Hutt, Blanco, Stern, and Harris (2004) declare that this body of law is perhaps the most confusing of all the areas in the field of cultural property law. Which laws apply, the authors argue, depends on four primary factors: a) the location of the resource; b) the extent to which the United States has jurisdiction over the lands on or in which the resources is located; c) the ownership status, if any, of the resource; and d) the significance of the resource (Hutt, et al. 2004:121-122). In order to present a synthesis of the various statutes reviewed in Chapter II, this section will first examine what various authorities recognize as maritime heritage resources, and subsequently examine the main preservation measures as they apply depending on which one of five geographical zones these resources are located in.

#### ***What Are Maritime Heritage Resources?***

Maritime heritage resources, a term of convenience used throughout this study, represent a diverse and vivid segment of the nation's cultural legacy that spans multiple resource types and locations. The only federal statute that truly attempts to address the breadth of these resources is the NHPA, as exemplified through the categories of historic properties

eligible for the NRHP. It is worth noting once more that properties listed or eligible for the NRHP fall into one of five categories: buildings, structures, objects, sites, and districts. Though some of these categories might appear self-explanatory, others require further clarification. A building includes those properties created principally to shelter any form of human activity or to refer to a historically and functionally related unit such as a house and a barn (U.S. Department of the Interior 2002a:4). A structure, on the other hand, is used to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter; these include historic boats and ships, bridges, lighthouses, and aircraft (U.S. Department of the Interior 2002a:4). An object is primarily artistic in nature or relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is remains associated with a specific setting or environment (U.S. Department of the Interior 2002a:5). Sites require further explanation as they incorporate features of other properties. They represent the locations of a significant event, a prehistoric or historic occupation or activity, or a building or structure (whether standing, ruined, or vanished), where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure (U.S. Department of the Interior 2002a:5). Finally, a district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development (U.S. Department of the Interior 2002a:5).

An archaeological property, as subsequently defined by the National Register, may be any of the above. The definition for archaeological property sets it out as the



place or places where the remnants of past culture survive in a physical context that allows for the interpretation of the remains (U.S. Department of the Interior 1993:2). For the purposes of the National Register, all submerged cultural resources are categorized as either sites or structures, and shipwrecks may fit into either category. The term *shipwreck* itself is defined as any vessel that has foundered, stranded, or wrecked, whether intact or scattered on the sea bed, lake bed, river bed, mud flats, beaches, or other shorelines (U.S. Department of the Interior 1992:14). A vessel which appears in the material record as a mostly intact hull is viewed as a historic structure, though it may concurrently be an archaeological property. Vessels that appear as broken or scattered sections of a structure with localized deposition of apparel, armament, cargo and other artifacts, widely separated with little or no continuity as a single representative item, are considered archaeological sites. The same applies to vessels that appear as discrete elements of hull, machinery, artifacts, or other remains, widely separated with little or no continuity, or as a single representative item (U.S. Department of the Interior 1992:14). If these remains have been purposefully moved to another location, they are no longer considered archaeological sites by the National Register (U.S. Department of the Interior 1992:14). Intense salvage, looting, or the collection of artifacts, however, do not necessarily compromise integrity, and shipwreck integrity is not limited to the survival of intact hulls (U.S. Department of the Interior 1992:17). Similar guidance is issued in the case of aircraft wrecks. These are aircraft that have been crashed, ditched, damaged, stranded, or abandoned. Wrecks may be intact or scattered, may be on land or in waters, and are considered a structure when relatively intact or a site when structural integrity is

lacking (U.S. Department of the Interior 1998a:20). The case study offered for an aviation wreck by the National Register specifically cites one that represented the design, use of materials, and functional significance as a preserved example. This was presented in contrast to the others in the same group that had been much altered, reconstructed, and/or reassembled, a common problem among these historic properties. Additional guidelines issued by NPS are specifically aimed at assisting with the evaluation of aids to navigation and historic landscapes (U.S. Department of the Interior N.d.-b; U.S. Department of the Interior N.d.-d). It is therefore clear that the NHPA casts a broad net over the types of potential maritime heritage resources that fall under its consideration, one of the reasons for its cornerstone status among preservation mandates. Finally, it is important to note that the NRHP's criteria exclude properties that achieved significance within the past fifty years from the Register unless they are of exceptional importance (U.S. Department of the Interior 2002a:41).

Other statutes tend to a more restricted set of resources. The AA specifically imposes a permitting requirement for any person excavating, injuring, or destroying historic or prehistoric ruins, monuments, or objects of antiquity on lands owned or controlled by the U.S. government. As observed earlier, legal contests over the exact nature of what constitutes an object of antiquity questioned the effectiveness of AA and helped lead to the development of ARPA. Passed in 1979, ARPA specifically considers archaeological resources and defines them as any material remains of past human life or activities which are of archaeological interest that are at least 100 years old (16 U.S.C. 1B § 470bb[1]). *Archaeological interest* is further defined in the promulgating

regulations of the Act as capable of “providing scientific or humanistic understanding of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation and explanation” (43 C.F.R. 7.3). “Material remains” represent “physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated” (43 C.F.R. 7.3). Shipwrecks are specifically mentioned in the regulations as archaeological resources, as are a broad range of possible cultural heritage sites. Where ARPA is more restrictive, however, than the NHPA when considering archaeological sites/archaeological resources is that in the former case they need to be at least 100 years of age, whereas in the latter only 50 to be considered eligible for the NRHP (if not younger). An archaeological site 85 years of age that is potentially eligible for the NRHP and located on public lands does not, therefore, receive protection under ARPA against looting, but must be taken under consideration in the case of federal undertakings.

The SMCA, on the other hand, only applies to a certain class of maritime heritage resources. Among them are sunken warships, naval auxiliaries, other vessels owned or operated by a government on military noncommercial service when they sank, as well as sunken military aircraft and military spacecraft owned or operated by a government when they sank. It is important to note that all associated contents also fall under the protection of the SMCA. In what is an encouraging trend, this approach appears to be consistent with the ASA and several state statutes that also treat sites and associated contents as a whole. One of the interesting facets of the SMCA is that no

temporal horizons are placed upon sunken military craft; whether a vessel is 200 years old, or 20, equal protection measures apply. The other important facet of the SMCA is that it applies equally to U.S. sunken military craft located anywhere in the world and to foreign craft located within U.S. waters (defined as internal waters, the territorial sea, and the contiguous zone). Permitting provisions which apply to U.S. sunken military craft may also apply to foreign craft, if an agreement with the foreign state has been reached (Public Law 108-375, 10 U.S.C. 113 Note and 118 Stat. 2094-2098). Overall, this is a particularly important statute for sovereign vessels (e.g., Spanish galleons), which have often attracted salvors given activities associated with such state craft during historic times.

Discussion of sunken military craft leads to a consideration of shipwrecks in general, and as defined in the ASA in particular. In the context of this statute certain categories of abandoned shipwrecks are claimed by the federal government and then transferred to states for management purposes. Certain abandoned shipwrecks located on public lands of the United States remain the property of the United States, while those on Indian lands are retained by the Indian tribe owning such lands (43 U.S.C. § 2105). Shipwrecks, defined as vessels or wrecks, their cargo and other contents, that are abandoned and embedded in submerged lands of a state, in coralline formations protected by a state on state submerged lands, or on submerged lands of a state and included in or determined eligible for the NRHP, formed the group of resources transferred to the states. States, in turn, were required to develop appropriate and

consistent policies to manage these abandoned shipwrecks (43 U.S.C. § 2102-2105). It is at the state level where one sees the greatest variety among preservation measures.

As observed in the sample of 20 states whose legislative frameworks were reviewed in Chapter II, not only are there inconsistencies in the overall treatment of submerged cultural resources, but also significant differences of opinion as to what these resources consist of and how old they must be to merit preservation. Alabama affords consideration to abandoned shipwrecks, archaeological treasures, treasure troves, and other artifacts whether or not they are associated with any shipwreck, as long as they are unclaimed for at least 50 years and are eligible or listed on the state register or the NRHP. California, which regulates even non-intrusive means of exploration, specifically notes objects, structures, buildings, watercraft, aircraft and their associated cargo, as well as human remains. Florida includes treasure troves, artifacts, and objects that maintain historical or archaeological value that have been abandoned, without specifying any temporal horizons. Louisiana focuses on all abandoned pre-20<sup>th</sup> century ships and wrecks, in addition to (archaeological) treasure embedded in the earth or underwater. Maryland takes a separate approach and addresses submerged archaeological historic properties as underwater structures, remains, objects that yield or are likely to yield information significant to prehistory, history, or culture, as long as they have remained embedded and unclaimed for at least 100 years or are included in or are eligible for inclusion in the NRHP. Massachusetts adheres to the same 100-year horizon in the case of abandoned properties, artifacts, treasure trove or ships, but requires that in most cases they be valued at \$5000 or more. Michigan, on the other hand, which defines abandoned

property as aircraft, watercraft, and associated equipment which have been deserted, relinquished, cast away or left behind, defines no specific temporal horizon; instead, the stipulation in this case is that attempts at reclamation must have been abandoned by owners and insurers. Minnesota, which reserves for itself the exclusive right to conduct field archaeology on state areas, affords objects or other evidence of archaeological interest the same protective measures, whether submerged or on land. Mississippi declares all sunken or abandoned ships and wrecks, as well as all treasure imbedded in the earth, as Mississippi landmarks and the sole property of the state. New Jersey, which adopts a very broad interpretation of archaeological findings (to include those geological or paleontological in nature), addresses shipwrecks in tandem with artificial reef habitats, and also places them under the umbrella of historic and archaeological resources which are eligible for or listed on the state register or the NRHP. The state requires projects to be undertaken in accordance with the ASA guidelines, which is quite an uncommon provision. New York has delegated the study of submerged cultural resources to six separate state agencies, with various statutes applying. North Carolina has adopted aggressive preservation legislation by designating itself custodian of shipwrecks, vessels, cargoes, and underwater archaeological artifacts on the bottom of navigable waters of the state if they remain unclaimed for more than 10 years. Ohio focuses on abandoned submerged watercraft and aircraft in Lake Erie with a 30-year temporal horizon. Oregon treats submerged cultural resources, broadly defined to include prehistoric sites, in the same manner as terrestrial sites which are at least 75 years old. The fact that most of its Pacific Ocean shoreline is vested in the state as a state

recreation area allows for particularly effective preservation of coastal resources. The same approach equating submerged with terrestrial cultural resources is followed by Rhode Island, though underwater historic property is broadly defined to include submerged refuse or former habitation sites, and is only required to have remained unclaimed for 10 years to enjoy preservation measures. South Carolina adopts an equally broad definition of historic properties, artifacts, and submerged archaeological historic properties, though it requires them to be unclaimed for more than 50 years, or in certain cases that they be listed on or eligible for the NRHP. Tennessee, which more expressly adopted its pertinent legislation following the ASA, concentrates on significant shipwrecks and developments of river navigation. Texas's Antiquities Code, which predates the ASA by nearly two decades, addresses a broad range of cultural resources including pre-20<sup>th</sup> century shipwrecks, their contents, and submerged archaeological sites of every character and designates them state archaeological landmarks (though shipwrecks, both watercraft and aircraft older than 50 years old, may also be designated as such). Vermont defines underwater historic property in virtually the same manner as Rhode Island, reserves exclusive right of field investigation on state lands like Minnesota, but in the same manner as Texas also declares state archaeological landmarks. Washington simply defines archaeological sites as the physical evidence of a past culture including material remains of past human life and archaeology as the systematic, scientific study of man's past through material remains. Prehistoric and historic objects, structures, artifacts, and implements, whether on land or below water,

are declared archaeological resources and are the property of the state if abandoned for more than 30 years.

The purpose of this overview was to indicate that at the state level there is a tremendously broad discrepancy in the definitions over what constitutes a historic or prehistoric submerged cultural resource (if the latter is afforded consideration at all). The inclusion of treasure in a number of these statutes sets an unfortunate tone, suggesting to the general public that archaeological resources are a valuable commercial commodity. Temporal horizons required for preservation measures to take effect span between 10 to more than 110 years, further demonstrating significant inconsistency. The differences, as evident in Chapter II, also extend into the treatment of such resources, the agencies responsible for them, whether salvors are allowed to maintain custody of a portion of recovered artifacts, and what that portion may be. This leads directly into a discussion of what preservation measures apply to submerged cultural resources, variously defined, on the basis of where they happen to be located.

### ***The Five Zones and Their Preservation Measures***

Maritime heritage resources located within the first zone, bounded by the coastal limits of the country, whether above or below water, are subject to a breadth of federal and state laws. Foremost among them is the NHPA, which likely carries the most far-reaching preservation measures nationwide. The NHPA, in addition to establishing the NRHP and requiring federal agencies to implement comprehensive historic preservation programs, assisted the states with developing SHPOs, and required federal agencies to



consider the effects of proposed federal, federally assisted or federally licensed projects on properties that meet the NRHP criteria. These measures ensure that maritime heritage resources are taken into consideration when under threat by development or other activities. The NEPA, which mandates that federal agencies consider the effects of significant proposed federal actions on the environment, also requires them to consider the historic, cultural, and natural aspects of the nation's heritage, thereby serving a similar, if not more limited purpose. Submerged cultural resources in internal waters find protection under both these statutes, as do coastal heritage resources, and those located further inland. The Reservoir Act of 1960, also known as the AHPA, comes into play in the case of submerged cultural resources in internal waters that are affected by federally constructed, licensed, or assisted activities, though it has largely been superseded by the NHPA. The Department of Transportation Act of 1966, as amended, carries with it preservation measures when significant transportation programs are approved by the Secretary of Transportation. When discussing federally owned or controlled land, submerged or otherwise, the protective measures of the AA also apply, though these, in turn, have in large part been superseded by the ARPA. The ARPA protects archaeological resources at least 100 years of age on federal and Indian lands, regulating scientific research through a permitting system, and establishing significant penalties in the case of violations. The ARPA, for example, is utilized by the NPS to regulate cultural resources on park properties, though here the NPSOA also applies. Protective measures are further afforded by through the NMSA when submerged cultural resources are located within any National Marine Sanctuaries falling within this zone. Both

domestic and foreign sunken military craft, as defined by the SMCA, are protected from unauthorized disturbance. Finally, the ASA applies to abandoned shipwrecks embedded in state-owned submerged lands or protected coralline formations, as well as those included or deemed eligible for inclusion in the NRHP. Submerged lands are primarily defined as lands beneath navigable waters, as per the SLA. Given that the ASA applies, these vessels are not subject to the common law of finds or the maritime law of salvage. All these federal statutes are complemented by the laws and rules of the states, many of which resulted from the ASA, which as observed in Chapter II above differ substantially from each other as far as what type of resources are protected, how old a resource must be, and how preservation-minded the applicable measures are. The ASA, however, indicates that state programs should be consistent with the Act and with the subsequent advisory guidelines developed by the NPS, thereby establishing a minimum level of uniformity from jurisdiction to jurisdiction (Aubry 1992). On the whole, maritime heritage resources inland from the nation's coasts enjoy the same preservation measures as their coastal and terrestrial counterparts, though there are significant discrepancies in the treatment of submerged cultural resources. Maritime heritage resources are also subject to the same jeopardies that apply to other cultural resources located on private lands (in cases where the NHPA does not apply), as the statutes of most states primarily address activities on public lands.

What soon becomes evident through this brief review of the legal mandates that apply to this first zone is that the federal government has a very important role to play in the preservation of the nation's maritime heritage. This role, for the most part,

concentrates on two core aspects of federal government operations. The first involves sets of rules that provide direction over the activities of the federal government, including the sanctioning of other parties' activities. The second category addresses the manner in which the federal government manages its lands and resources, given that a large number of federal agencies serve as stewards of public lands and together manage one-third of the country's land base. In this manner, the long tradition of managing cultural resources together with natural resources is continued (Hutt, et al. 2004:1). Whereas these two sets of activities have a broad reach, in areas where the federal role is diminished, measures that help preserve the nation's maritime heritage resources follow suit. This is not the case when it comes to preserving and controlling access to federal property in the form of sunken military craft, which is a government function irrespective of location.

The second of the aforementioned zones consists of the area of the nation's territorial sea that extends, for the most part, to three nautical miles from the coastline. Here the NHPA, AHPA and NEPA continue to apply, though, once more, only in the case of federal undertakings. National seashores that fall under the NPS, as well as National Marine Sanctuaries managed by the NOAA serve as guardians of maritime heritage resources included within them, both through organization-specific statutes (NMSA, NPSOA), but also through the AA and the ARPA. The ARPA also applies to the lands reserved by the federal government under the SLA and to lands transferred by states to the federal government. The SMCA continues to guard both foreign and domestic sunken military craft. However, the main steward of maritime heritage

resources in this zone and the party with the greatest influence on their preservation is the individual state which is responsible for the submerged lands. Under the ASA, ownership of abandoned shipwrecks reverts from the federal government to the states, and they therefore fall under state management. In addition to the aforementioned issues with the ASA surrounding the concept of *abandonment*, only about half the states have legislation or programs that specifically address some aspect of submerged cultural resources, and only nine have specific dedicated programs to manage these resources (Aubry 2009:5). When this is compared to the 33 states with coastal zone management plans, the scale of this issue comes into further focus (National Oceanic and Atmospheric Administration 2011p; 2011q). In addition to the fact that state programs often allocate responsibility for submerged cultural resources to multiple agencies without empowering a single steward, approximately 22 states allow for commercial salvage of historic shipwrecks and subsequent distribution of recovered artifacts. Though a number of these do carry provisions excluding shipwrecks located within state underwater preserves or eligible for the NRHP, the widely accepted nature of such practices is particularly disconcerting (Aubry 2009). It is worth noting that transferring recovered submerged cultural resources to the possession of the salvor is something very rarely seen at the federal level (one standing practice being the deaccession permits for insignificant items issued by the Florida Keys National Marine Sanctuary). The preservation framework that emerges in this zone is therefore much more complex, though on the whole still more positive than that which exists in the third zone.

Even if the United States has exercised some form of jurisdiction extending up to 200 nautical miles from the coast, beyond the three nautical mile limit, there is no comprehensive system of protecting submerged cultural resources (Elia 2000:43). The third zone consists of the remaining territorial sea that is under federal jurisdiction, which leads to the 12 nautical mile limit. No law, however, asserts public ownership to this land, and under the OCSLA, it forms the beginning of the OCS. In the case of *Treasure Salvors v. The Unidentified Wrecked and Abandoned Sailing Vessel*, the United States argued that the OCSLA demonstrated Congressional intent to extend the jurisdiction and control of the United States to the OCS. The Fifth Circuit disagreed and held that the OCSLA only extended United States control over the OCS for purposes of exploration and exploitation of natural resources. Therefore, the federal government does not claim title to cultural resources on the OCS and the AA was rendered inapplicable in this area (save for where express federal control exists, such as in National Marine Sanctuaries) (Aubry and Stright 1999; Elia 2000:47; Zander 1996:29). The ASA, with few exceptions in the Gulf of Mexico, also no longer applies in this area, which means that the common law of finds and the maritime law of salvage are largely unrestricted. The ARPA specifically excludes the OCS and cannot be brought to bear against looters. The CZMA only extends to state boundaries. There are no national park units within this zone, rendering the NPSOA mute. What is left is limited to a few statutes, including the NMSA which, following its 1992 amendments, directly provides the authority to designate and manage sanctuaries not only within the territorial sea, but also to the outer limits of the 200nm EEZ (Elia 2000:48; Hutt, et al. 1999:495; Zander

1996:30; 16 U.S.C. Section 1432[3]). The SMCA remains unaffected as it is not tied to a geographical location. The only other main preservation drivers are federal undertakings that affect historic properties listed or eligible in the NRHP, as well as activities that trigger the AHPA and the NEPA. Submerged cultural resources identified through mitigation measures may be avoided for the sake of the prescribed activities, but are subsequently afforded no special protective measures, even if listed on the NRHP as a result of the mitigation efforts. This is not meant to diminish the efforts of today's BOEM, which have been substantial in regulating the oil and gas industry and preserving submerged cultural resources from the effects of infrastructure development. A report that is already over ten years old states that, since 1973, when the archeological survey requirement was initiated within what was then the Minerals Management Service, about 38 million acres of the OCS had been surveyed with submerged cultural resources in mind (Aubry and Stright 1999:5). The concern remains, however, about the long-term preservation of sites after they have been identified, something which inadvertently may even increase their chances of suffering from looting or salvage efforts.

The same concerning situation exists in the fourth zone, which corresponds to the Contiguous Zone and extends from 12 nautical miles to 24 nautical miles from the coastline. Whereas Presidential Proclamation 7219 contains a provision that specifically cites the extension to a 24 nm contiguous zone as an important step in preventing the removal of cultural heritage found within it, there has been no litigation addressing the effect of this language (Hutt, et al. 2004:123). The ASA no longer applies anywhere in

this zone, the same restrictions curtail the AA's efficacy, the ARPA is equally largely irrelevant as in the third zone, and both the maritime law of salvage and the common law of finds are generally unrestricted; the last would be applied by U.S. courts to artifacts recovered from submerged cultural resources and brought into the territorial jurisdiction of the court. What is left once more as the primary protective measure is the NMSA, where sanctuaries have been declared, and the SMCA. The NHPA, AHPA, and NEPA come into play when triggered by suitable undertakings though, here too, they only consider the effects on submerged cultural resources during the course of those undertakings, and hence offer no longer-term protection for cultural sites.

The statutes that apply in the fifth zone, concomitant with the EEZ, largely mirror those that apply in the fourth with some differences when it comes to the NMSA and the SMCA. In the case of the former, what changes when considering this area is whether enforcement of the NMSA against foreign nationals and foreign-flagged vessels is feasible, as it must be consistent with international law (Aubry 2009). Customary international law only provides for the enforcement of a nation's domestic laws against foreign-flagged vessels out to the contiguous zone, not out to the EEZ (Zander and Varmer 1996). When it comes to the latter, sunken military craft of foreign nations, while still potentially protected from unauthorized disturbance, may no longer be incorporated into any permitting regime established by a United States military department or the department which operates the Coast Guard.

## **COMBINED MARITIME HERITAGE QUESTIONNAIRE RESULTS**

### ***Composition of Respondents***

With this geographic and legal framework in mind, Chapter III assessed the responses submitted by the 78 organizations that partook in the MHQ through designating each respondent as part of either the public, social, or private sectors. These designations were based on the category each respondent used to best describe their organization in answering MHQ #5. The assessment revealed both interesting similarities but also some differences between the three sectors, in part attributable to the diverse missions and scopes of respondent organizations. The intent of the current review is to take a much broader approach and assess organizational responses as a whole, capturing the perceptions and impressions of all 78 organizations representing the full gamut professional stakeholders that participated in the MHQ (Table 12). This will diminish the ability to identify distinguishing characteristics between subgroups, but will allow for a comprehensive view of the state of the field.

### ***Quantitative Data***

When viewed as a whole, a large percentage of organizations involved in maritime and coastal heritage resource preservation support maritime archaeologists (Figure 36). In fact, maritime archaeologists are present among staffs more than any other prescribed category of professionals. This result is likely in part attributable to survey methodology parameters, as well as potentially due to self-selection among the invited organizations



that chose to respond; that is, those who maintained a higher interest level, as would be expected among maritime archaeologists, elected to participate. It is also, however, an encouraging indication that an active group of professionals with an educational background specifically tied to maritime heritage resources is present to help steer the activities of at least 67 organizations nationwide that are among the most involved in the sector. Joining them in almost two-thirds of cases are GIS or IT specialists and cultural

**TABLE 12.** *List of All Organizations that Responded to the Maritime Heritage Questionnaire*

Category	Organization
Federal Agencies	Bureau of Ocean Energy Management, Gulf of Mexico OCS Region ( <i>Incomplete</i> )
	Bureau of Ocean Energy Management, Pacific OCS Region
	Department of Defense, Joint POW/MIA Accounting Command (JPAC), Central Identification Laboratory
	Department of the Navy, Naval History and Heritage Command, Underwater Archaeology Branch
	National Oceanic and Atmospheric Administration, National Marine Protected Areas Center
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Maritime Heritage Program
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Pacific Islands Region
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Monitor National Marine Sanctuary

**TABLE 12.** *Continued*

Category	Organization
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Papahānaumokuākea Marine National Monument
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Stellwagen Bank Sanctuary
	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Thunder Bay National Marine Sanctuary
	United States Department of Transportation, Maritime Administration
	United States National Park Service, Archaeology Program
	United States National Park Service, Submerged Resources Center
State Agencies	Alabama, Alabama Historical Commission
	Alaska, Alaska Office of History and Archaeology
	California, California State Parks, Department of Parks and Recreation
	Florida, Florida Division of Historical Resources, Bureau of Archaeological Research
	Maryland, Maryland Historical Trust, Maryland Maritime Archaeology Program
	Massachusetts, Massachusetts Board of Underwater Archaeological Resources
	Michigan, Michigan Department of Natural Resources
	Minnesota, Minnesota Office of the State Archaeologist

**TABLE 12.** *Continued*

Category	Organization
	New York, Office of Parks, Recreation & Historic Preservation, Historic Preservation Field Services Bureau
	Rhode Island, Rhode Island Historical Preservation and Heritage Commission
	Texas, Texas Historical Commission
	Wisconsin, Wisconsin Historical Society, Maritime Preservation
Universities	Clemson University, Warren Lasch Conservation Center
	Coastal Carolina University, Center for Archaeology and Anthropology
	East Carolina University, Program in Maritime Studies
	Florida Public Archaeology Network
	Indiana University of Pennsylvania, Department of Anthropology
	Indiana University, Office of Underwater Science
	Luther College, Classics Department
	Texas A&M University, Center for Maritime Archaeology and Conservation
	Texas A&M University, Department of Anthropology, Nautical Archaeology Program
	The George Washington University, Capitol Archaeological Institute
	University of Connecticut, Avery Point, Maritime Studies Program
	University of Maine, School of Marine Sciences
	University of Miami, Rosenstiel School of Marine & Atmospheric Science, Division of Marine Affairs & Policy

**TABLE 12.** *Continued*

Category	Organization
	University of South Carolina, South Carolina Institute of Archaeology and Anthropology University of West Florida, Anthropology Department
Museums, Non-Profit Organizations and Societies	Advisory Council on Underwater Archaeology Cleveland Underwater Explorers, Inc. Great Lakes Historical Society Great Lakes Shipwreck Preservation Society Historic Naval Ships Association Institute for International Maritime Research, Inc. Institute of Nautical Archaeology Lake Champlain Maritime Museum Lighthouse Archaeological Maritime Program Maritime Archaeological and Historical Society Maritime Heritage Minnesota Monterey Bay Aquarium Research Institute Ocean Exploration Trust ( <i>Incomplete</i> ) Promare Inc. Rhode Island Marine Archaeology Project RPM Nautical Foundation Smithsonian's National Museum of American History Underwater Archaeological Society of Chicago Waitt Institute

**TABLE 12.** *Continued*

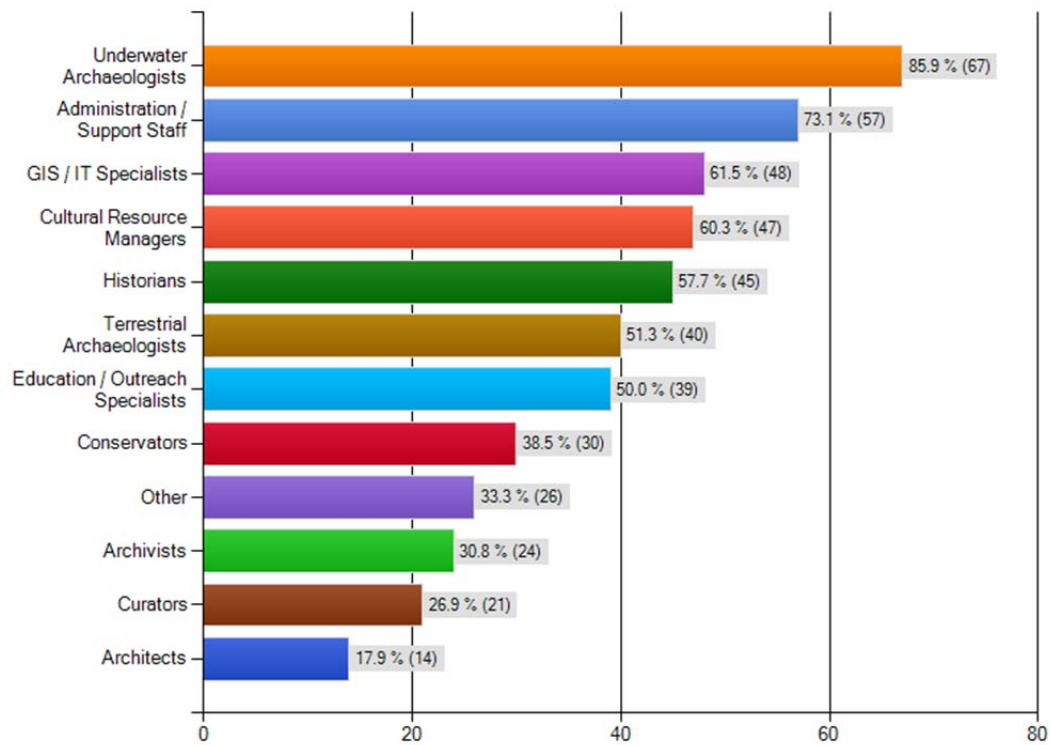
Category	Organization
Cultural Resource Management Firms OR Firms with a Cultural Resource Management Division	Atkins North America, Inc.
	C & C Technologies, Inc. GeoSciences Division
	Dolan Research, Inc.
	Fathom Research, LLC
	Fugro GeoServices, Inc.
	Geoscience Earth & Marine Services, Inc.
	L. A. Landry & Associates, Inc.
	Marine Surveys, LLC
	Mid-Atlantic Technology and Environmental Research, Inc. ( <i>Incomplete</i> )
	Panamerican Consultants, Inc.
	Plateau Archaeological Investigations, LLC
	R. Christopher Goodwin & Associates, Inc.
	South Eastern Archaeological Services, Inc.
	Southeastern Archaeological Research, Inc.
	SWCA Environmental Consultants, Cultural Resources
Tesla Offshore, LLC	
Tidewater Atlantic Research, Inc.	
URS Corporation	

resource managers, indicating that professionally active maritime archaeologists must maintain a proficiency in both of those fields in order to operate effectively in the workplace. Historians and terrestrial archaeologists round out the professionals to be encountered in more than half of respondent organizations. Half of the respondents also noted the incorporation of educational outreach specialists on staff, demonstrating a

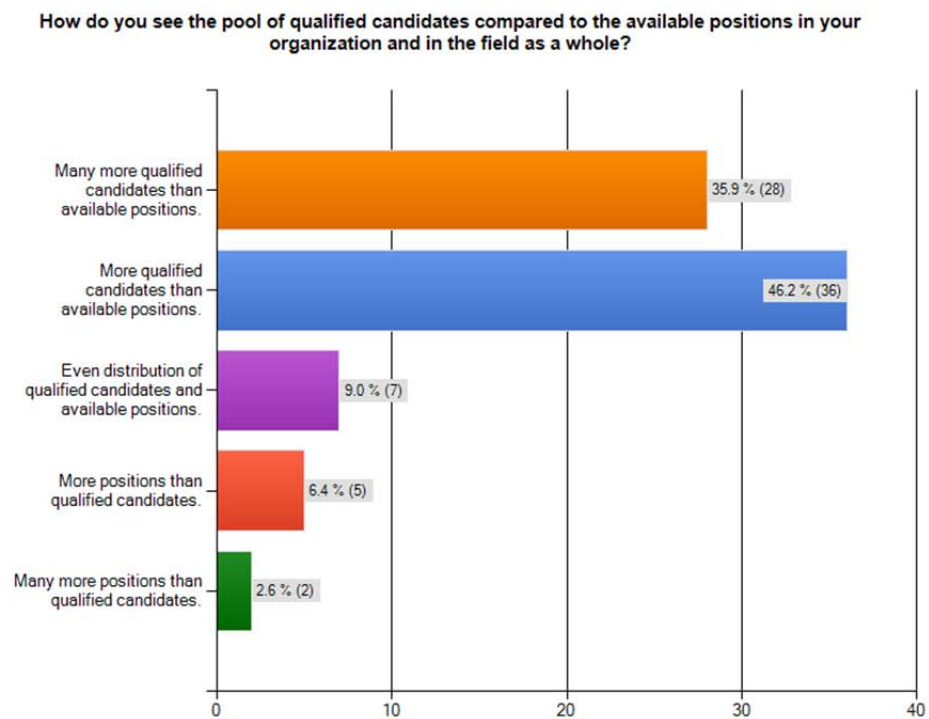
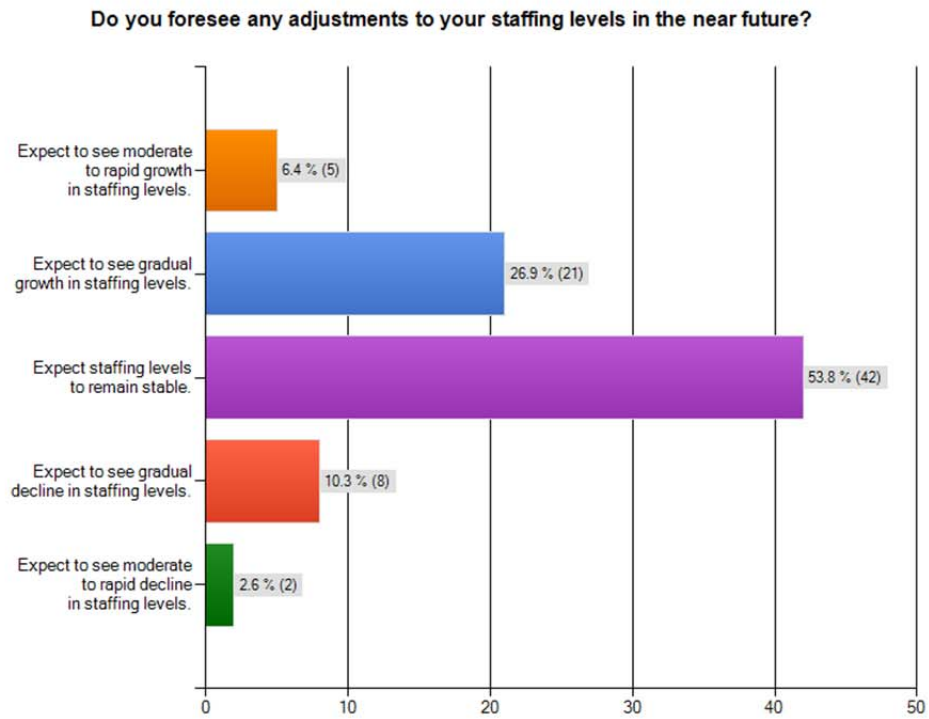
growing understanding that the activities of all three sectors involve sharing knowledge gained with the public or potential clients. Conservators appear in more than a third of respondent organizations, distancing themselves from curators, which are only present in a fourth of the survey sample. On their own, these last two figures indicate what is likely both a concentration of skills and resources and the fact that artifact recovery is fairly infrequent in the field as a whole. Given the prevalence of maritime archaeologists on staffs, one would assume that the importance of conservation on recovered artifacts would be well understood, and therefore recoveries would be weighed against available resources.

When considering prospects of development within the field as a whole, it is worth noting the limited-to-moderate potential of growth anticipated by the survey sample. A bell curve in this instance would generally indicate a fairly stagnant field, though it is important to note that the question addresses the rate of growth or decline, not the actual numbers of staff each organization expects to bring on board or let go. The data in Figure 36 do offer the general impression of a bell curve; however, responses are weighted by nearly 20 percent towards growth rather than decline. More than half of

What kind of specialists are employed by your organization? Please check all that apply.



**FIGURE 36.** Series of graphs indicating all responses to MHQ questions #10, #11, and #12 pertaining to staff specialties and staff levels within respondent organizations, and the overall balance between available positions and qualified candidates.



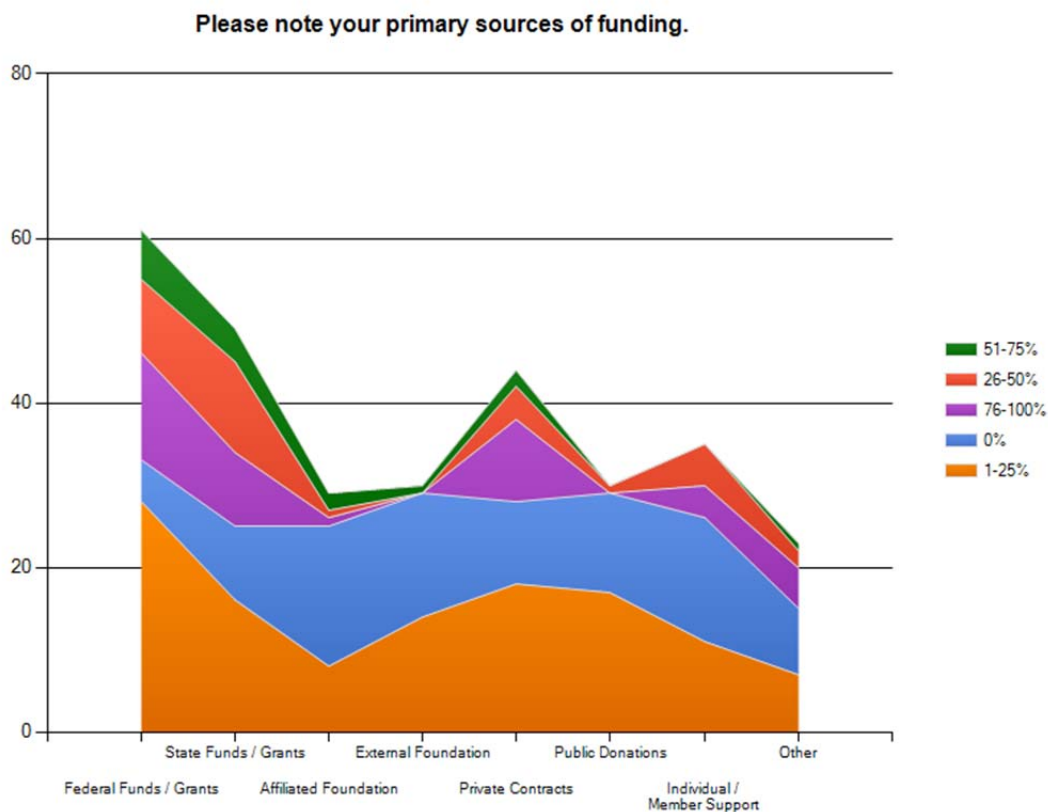
**FIGURE 36.** *Continued.*



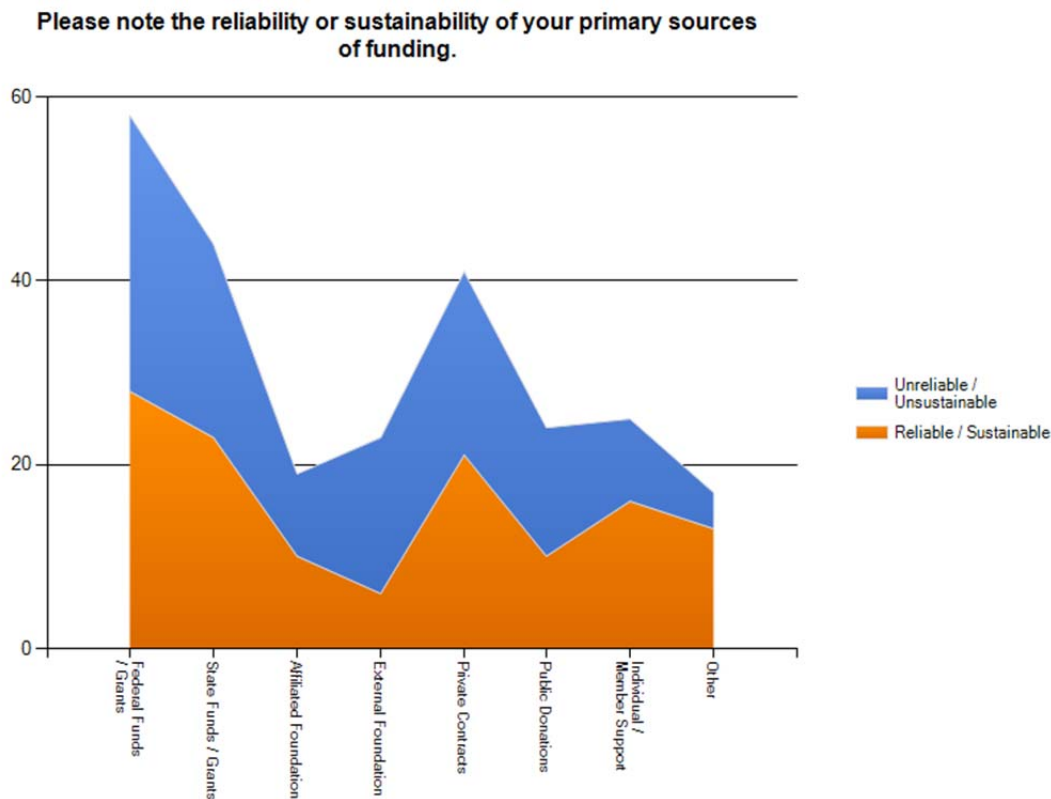
respondent organizations indicated no perceived changes in staffing levels, meaning that the only positions that will become available will be due to the rotation of existing staff. Field may be more measured given the overwhelming impression that there are more qualified, or many more qualified candidates than available positions. Over 80 percent of respondents noted such an impression with less than 10 percent believing in an equal distribution, and even fewer in an availability of positions that exceeds the number of qualified candidates. Many of the latter represent organizations that are seeking candidates with skills that appear to be lacking among job-seekers (e.g., private sector organizations involved in offshore surveys). What emerges is an impression of a saturated market where candidates far outnumber the available positions and where the overall growth potential is limited with most organizations simply replacing existing staff. In such an environment, it is most unfortunate that organizations are unable to find the qualifications they are seeking for in job candidates, as this appears to be one of the measures through which to at least partly improve the perceived present imbalance.

The most common source of funds for organizations is the federal government, whether in the form of grants or contracts (Figure 37). Over 90 percent of organizations depend on it for varying degrees of support – more than 20 percent depend on it heavily, while nearly half of organizations at least partially rely on it (1-25 percent of revenue). The next most common source of funding is state governments, with more than 80 of respondents indicating that they turn to this source for support to some degree. Though the distribution to some degree mirrors that of federal funds, an additional 10 percent of respondents (likely federal agencies) indicate that they do not turn to this funding source.

Affiliated foundations serve only little more than a third of respondents, with the large majority of those only partially relying on them (1-25 percent of revenue). External foundations, on the other hand, support nearly half of respondents, again, only partially (1-25 percent of revenue). Nearly a quarter depend almost exclusively on private contracts, with another two thirds turning to them for at least some revenue, though more than 40 percent only for modest amounts. Public donations support more than half of respondent organizations, though only one organization notes that this support



**FIGURE 37.** Series of graphs indicating all responses to MHQ questions #13 and #14 pertaining to the primary sources and reliability of funding available to respondent organizations.



**FIGURE 37.** *Continued.*

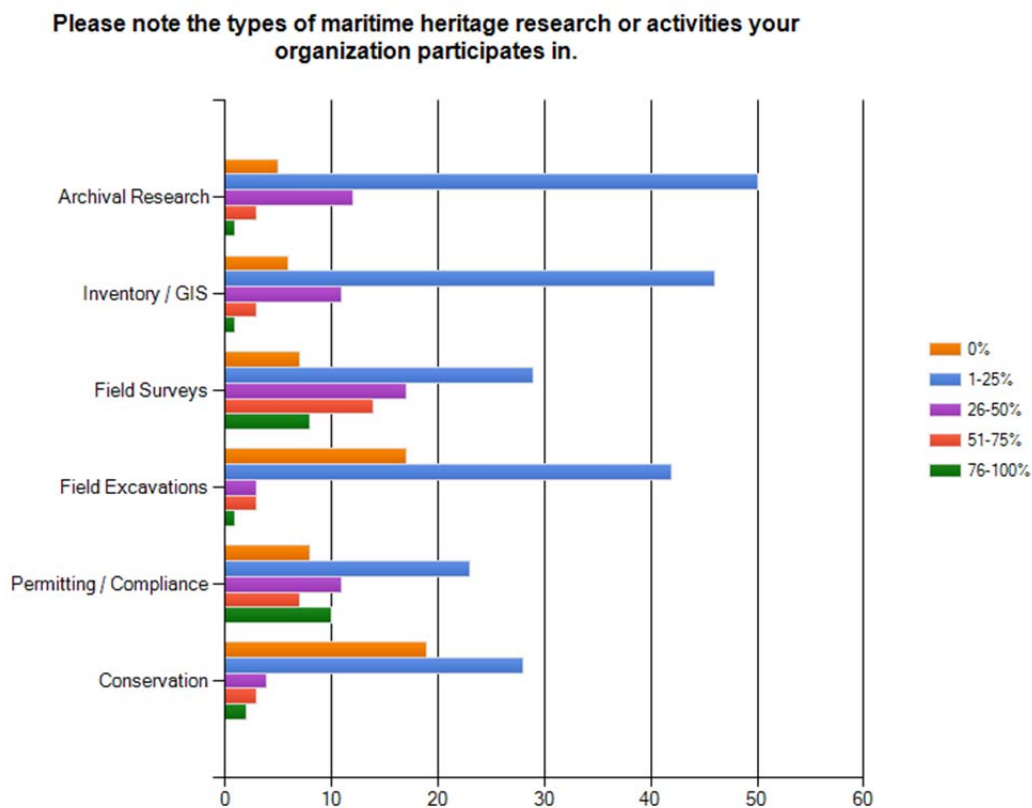
constitutes more than a quarter of its funding. Individual member support, on the other hand, is heavily relied upon by more than 10 percent of organizations (76-100 percent of revenue), moderately relied upon by an additional 15 percent (16-50 percent of revenue), and partially relied up by another 30 percent of respondents (1-25 percent of revenue). Here, it is worth noting a number of organizations heavily or partially rely on additional sources of funding not identified as response options. These include endowments and trusts particularly important to universities, foundations, and non-profit research

organizations, tuition which is of notable importance to universities, and entrance and gift fees, which largely support organizations that manage historic properties or museums. These alternative sources of funds were also deemed to be the most reliable by respondents, as indicated by more than three-quarters of organizations that rely on them. Individual or member support is the next most reliable source of funding to organizations that turn to this source of revenue. When it comes to every other source of funds except external foundations (deemed unreliable by nearly three-quarters of respondents), respondents were evenly split,  $\pm 10$  percent. This is particularly important to consider in the case of federal and state funds, which support such a broad spectrum of organizations.

As evidenced by the earlier assessment of each of the three sectors, the vast majority of respondents indicate that they dedicate up to a quarter of their time to each of the maritime heritage research functions or other activities identified in MHQ #15 (Figure 38). This demonstrates a field with the dexterity necessary to undertake a variety of multi-faceted tasks. The only areas where there is a notable minority of organizations that do not engage in them are the areas of conservation, with a third of respondents refraining from associated activities, and field excavation, with a quarter of organizations doing the same. In all other cases, at least 85 percent of respondents participated in that type of research or activity to varying degrees. On the other end of the spectrum, field surveys and either permitting or compliance are the activities most engaged in by respondents, with at least half of organizations dedicating more than a quarter of their time to them. In viewing the field as a whole, permitting and compliance

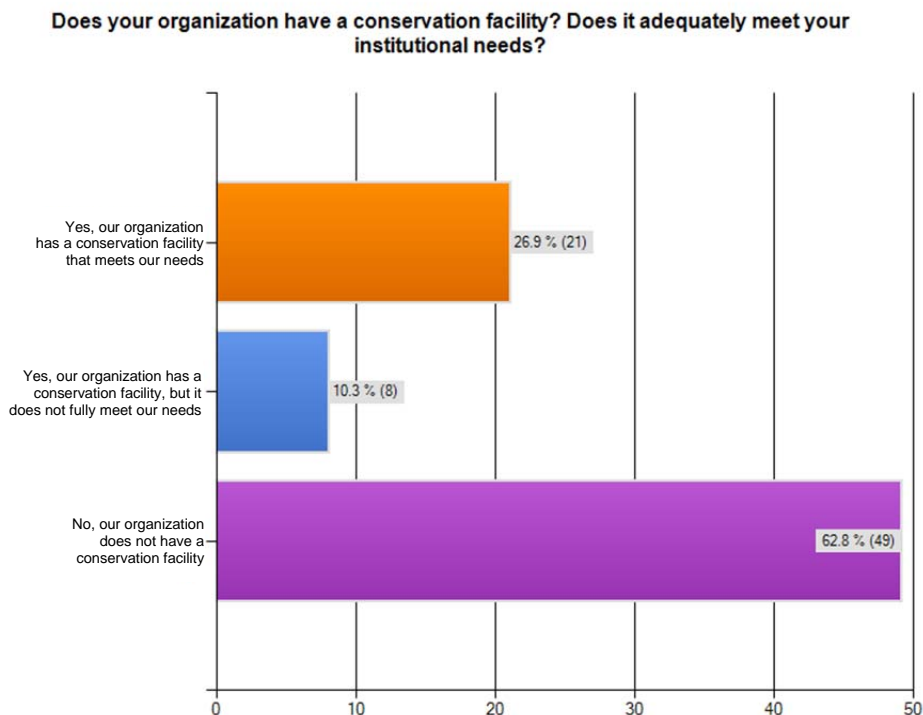
should be interpreted both as the act of seeking and as the act of reviewing permits and complying with appropriate regulations.

Nearly two-thirds of respondents indicate that they do not maintain a conservation laboratory, and more than half do not maintain a curation facility, reflecting responses provided earlier in regards to staffing specialties and research activities



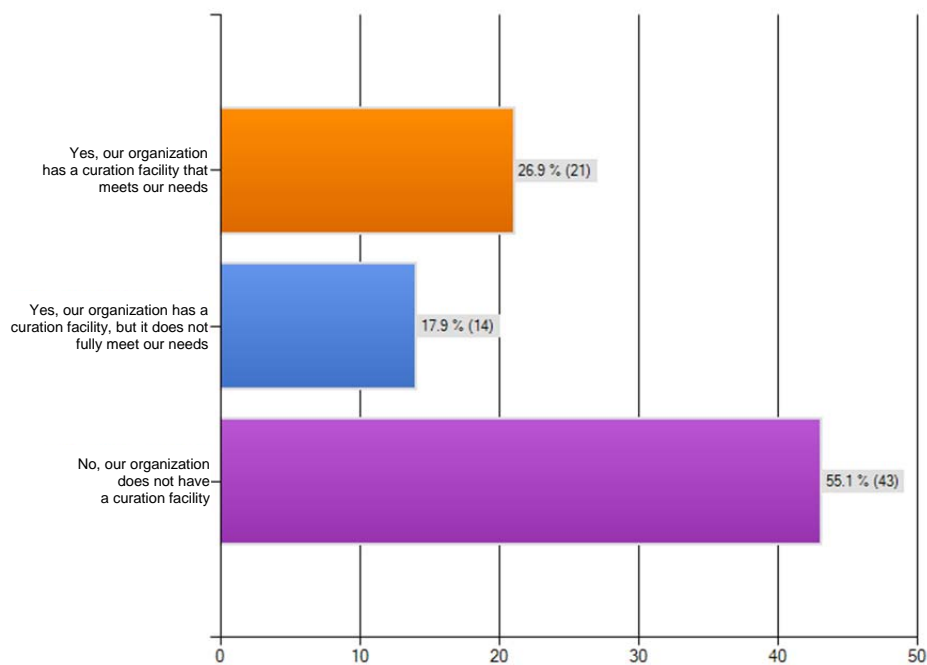
**FIGURE 38.** Graph indicating all responses to MHQ question #15 pertaining to the scope of research or other activities performed by respondent organization.

(Figure 39). A quarter of respondents note that they do maintain a conservation laboratory that meets their needs, which mirrors the number of respondents (21) that indicated they maintain a curation facility that meets their needs. Eleven organizations, just over half of the aforementioned, maintain both, leaving the remainder of respondents to support one or the other. There is also a notable number of respondents that maintain facilities that do not fully meet their needs. This is particularly the case with curation spaces, as nearly 40 percent of respondent organizations that maintain one



**FIGURE 39.** Series of graphs indicating all responses to MHQ questions #16 and #17 pertaining to the maintenance of a conservation or curation facility by respondent organizations.

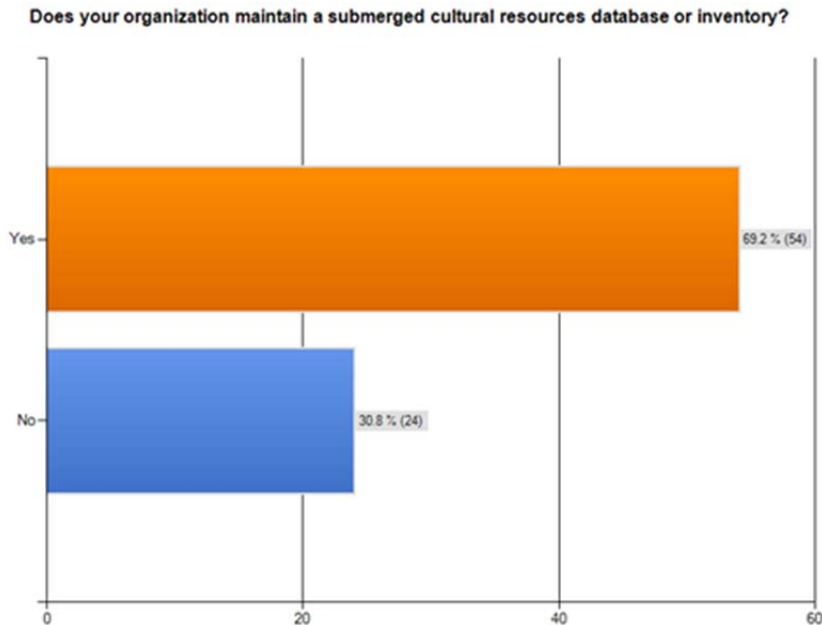
**Does your organization have a curation facility? Does it meet your institutional needs?**



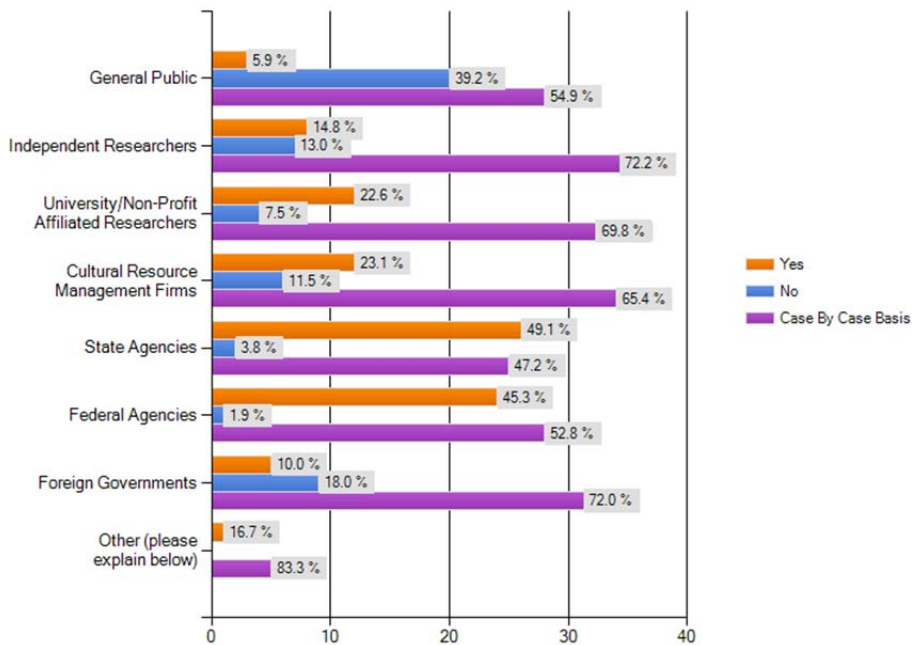
**FIGURE 39.** *Continued.*

are not fully satisfied with their facility. The proportion of unsatisfactory conservation laboratories drops to a quarter of pertinent organizations, which is still significant considering their relative scarcity.

On the other hand, almost 70 percent of respondents indicated that they maintain an inventory of submerged cultural resources, which, without accounting for duplicates, suggests the existence of approximately 50 separate databases (Figure 40). Independent researchers, non-profit organizations, universities, state agencies, and federal agencies have each been involved in the development of half of the total external number of inventories, though not necessarily the same half in the case of each contributing party.

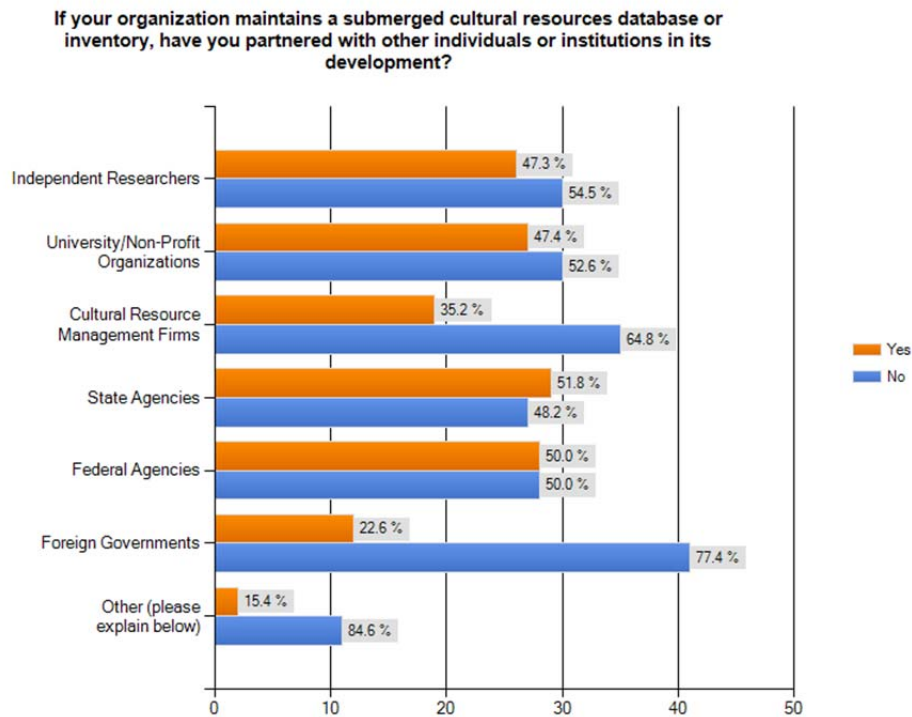


**If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**



**FIGURE 40.** Series of graphs indicating all responses to MHQ questions #19, #20, and #21 pertaining to the maintenance of submerged cultural resource databases by respondent organizations, as well as to their development, and access policies.





**FIGURE 40.** *Continued.*

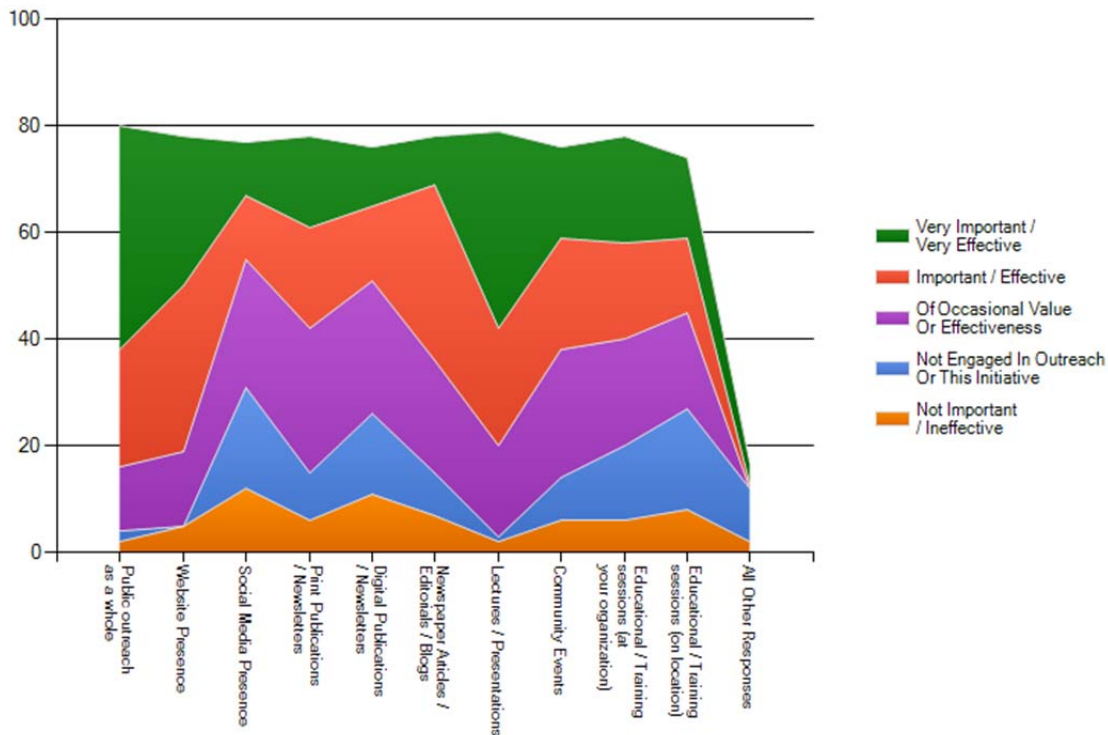
Nearly two-thirds of cultural resource management firms and more than three-quarters of foreign governments have not been a part of the development of external databases. Given all the independent factors that go into the creation of inventories, such as the type of resources involved, the extent of the area covered, the purpose of the inventory, overlapping jurisdictions, and data ownership, it is challenging to make a determination as to whether this indicates a field that collaborates with partner organizations in this manner, or one that does not. Perhaps one should find

encouragement in the fact that the level of collaboration is already significant, but also stress that it could potentially be improved with the proper safeguards in place.

When it comes to database access practices, by far the most common response is that access is granted on a case-by-case basis. This appears to represent the practices of at least 45 percent of organizations regardless of who is requesting access, a proportion that exceeds 70 percent in certain subgroups. Only when considering access to state or federal agencies do nearly half of respondents have a standing policy permitting the sharing of data, and only in the case of state agencies does that approach exceed the number of organizations that decide based on the particular situation. On the other end of the spectrum, in nearly 40 percent of instances, the general public does not have access privileges as a matter of course, though in the case of independent researchers that percentage drops to only 13, suggesting that if members of the public are vetted then access is much less restricted.

Over 80 percent of respondents indicated that public outreach, as a whole, is important, with more than 50 percent opting to describe it as very important (Figure 41). Only about 5 percent of respondents deemed it unimportant or did not engage in it. It is clear, therefore, that as a field respondents have recognized the importance of educating the public, or perspective clients, about what it is that they do. More than three-quarters deem that their website presence is at least an effective instrument, if not a very effective one, when it comes to reaching the public. The only other outreach tool that as a whole approaches website presence in effectiveness, and in fact exceeds it in the percentage of

Please note the importance of public outreach to your organization and the effectiveness of outreach initiatives as experienced by your organizations.

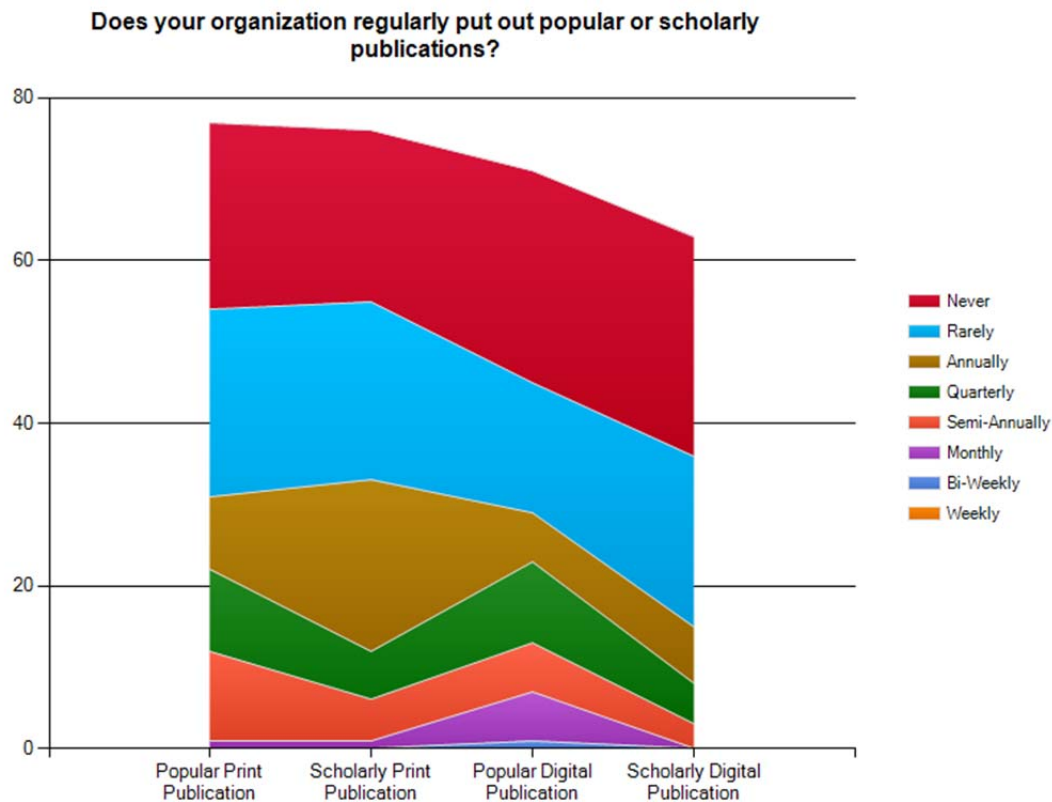


**FIGURE 41.** Graph indicating all responses to MHQ question #18 pertaining to the importance of public outreach as a whole, as well as the effectiveness of individual public outreach initiatives as viewed by respondent organizations.

respondents deeming it to be very effective, are lectures and presentations. More respondents judged social media, print publications, and digital publications as occasionally effective than any other individual outreach category. In the case of print publications and newsletters, however, the spectrum was heavily weighted to the overall effective side, with nearly half of respondents deeming them to be at least effective. Nearly half of respondents also noted newspaper articles, editorials, and blogs as being

effective though more than a quarter suggested they were only so on occasion. In the case of community events, and educational training sessions (both on location and at the responding organizations), the responses were directed towards the effective side of the spectrum, though split evenly between the three categories of effectiveness. The vast majority of respondents, approaching or exceeding three-quarters of organizations, participated in some manner in each of the prescribed outreach methods. This indicates that as a field these organizations support developed and multi-faceted public outreach programs with website presence and public lectures or presentations at their core.

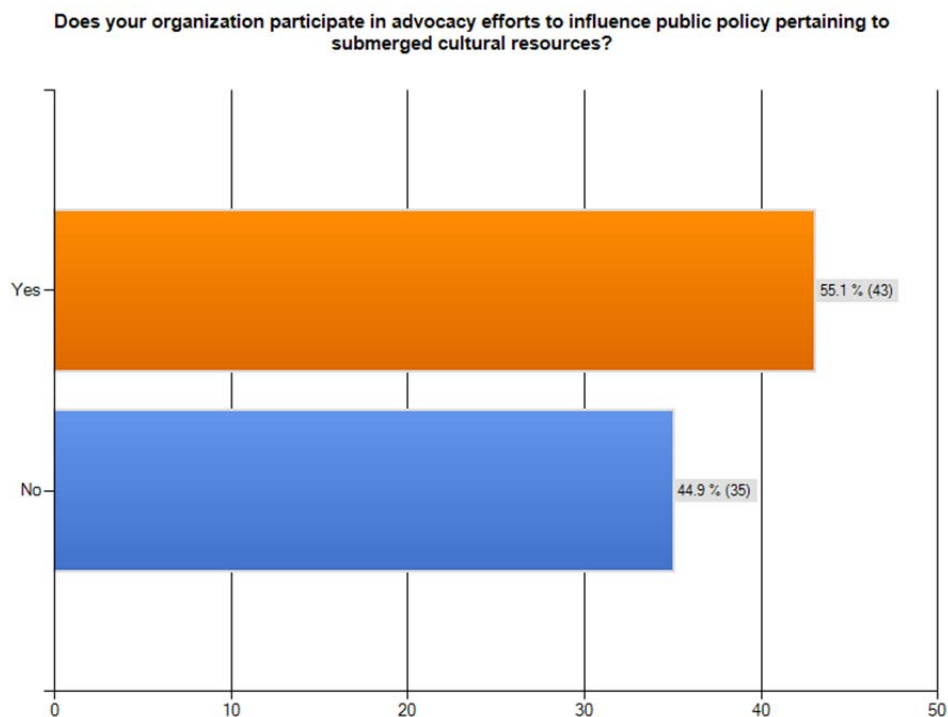
Approximately two-thirds of organizations support information dissemination through scholarly and popular publications, whether in print or digital form (Figure 42). Nearly a third issue both types of print publications as well as scholarly digital publications rarely, while almost 30 percent issue scholarly print publications annually. Popular print publications are the most common semi-annual publications, though participation in this category drops to approximately 15 percent. However, numbers regain in the quarterly category with nearly 30 percent of respondents, mostly from the social sector, issuing popular digital or print publications. These are likely organizations engaged in informing their institutional membership of organizational progress.



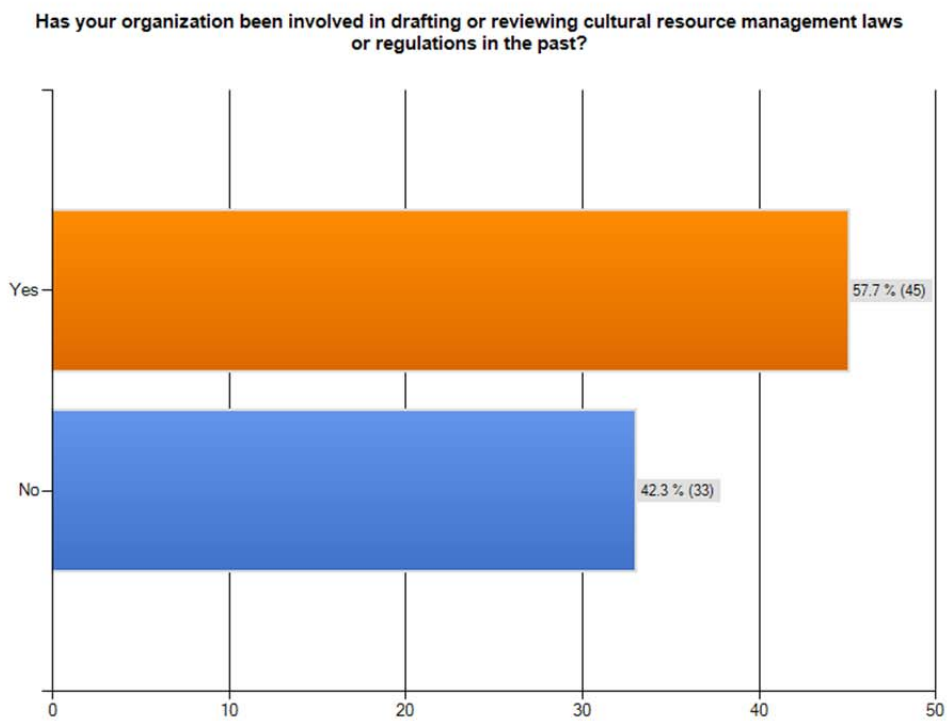
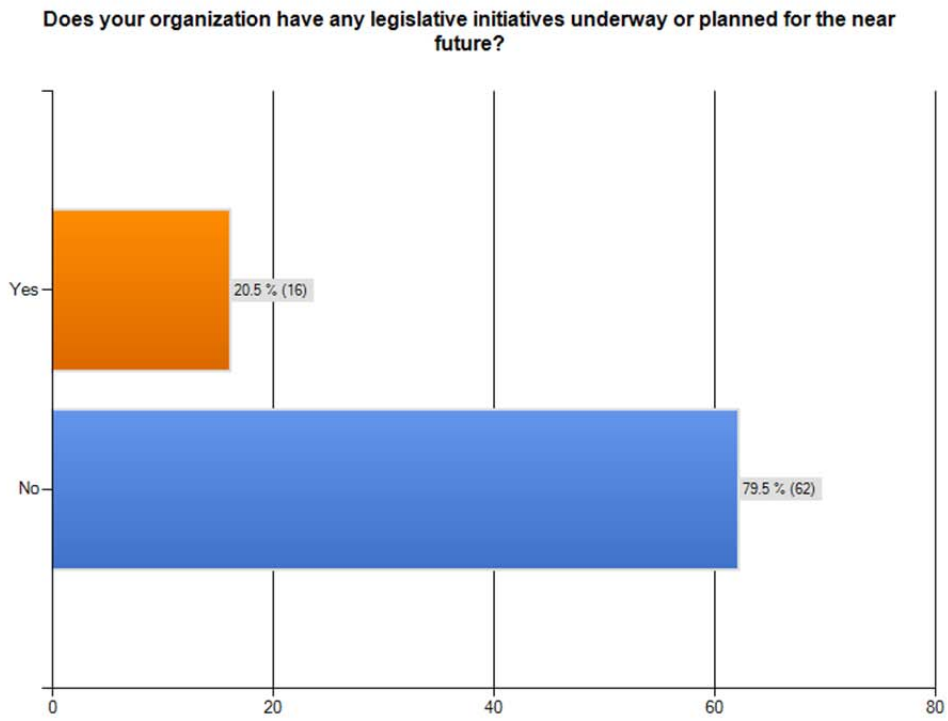
**FIGURE 42.** Graph indicating all responses to MHQ question #22 pertaining to the publication practices of respondent organizations.

More than half of respondents report being engaged in advocacy efforts aimed at influencing public policy pertaining to submerged cultural resources (Figure 43). Once more, given the lack of baseline data, it is challenging to gauge the overall significance of this response rate as it is not possible to ascertain trends. One must note both a healthy foundation and plenty of room for improvement. What can be said is that the most active sector of the field in this regard is the social sector as it carries a positive response rate that exceeds 70 percent and bolsters the overall average. In part as a result of advocacy

efforts, a fifth of organizations have legislative initiatives underway or planned for the near future. This is a significant proportion overall and shows a vibrant community attempting to better their present situation; initiatives in this case are heavily concentrated in the public sector, whose response rate approaches 40 percent. Also an indication of a vibrant community is the fact that nearly 60 percent of all respondents have been involved in either drafting or reviewing cultural resource management laws or

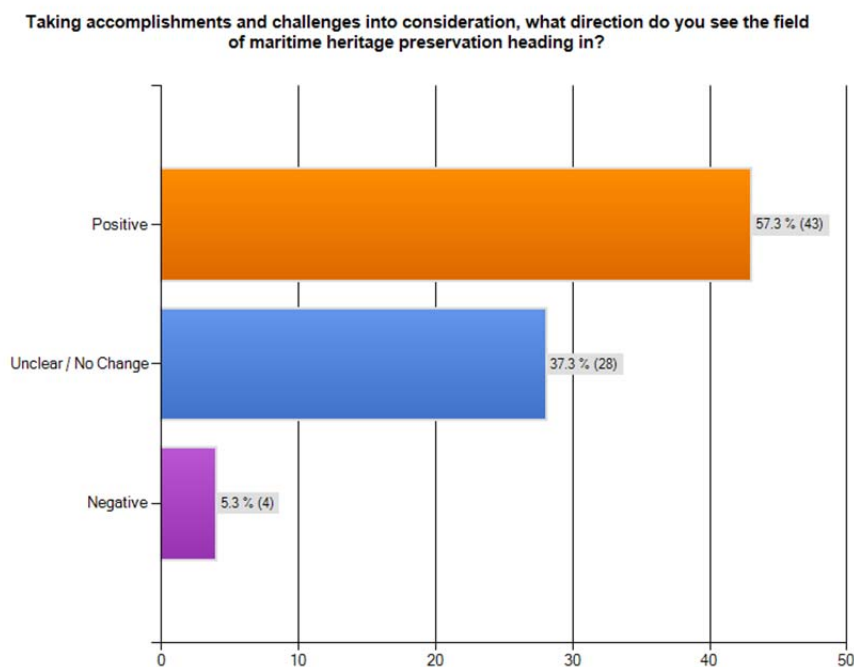


**FIGURE 43.** Series of graphs indicating all responses to MHQ questions #24, #25, and #26 pertaining to advocacy, legislative, and legislative review practices of respondent organizations.



**FIGURE 43.** *Continued.*

regulations in the past. The average is heavily weighted by the nearly 90 percent of public sector organizations that have indicated their involvement in such matters; however, in the social and private sectors the percentage of involved organizations still hovers at around 40 percent. Overall, the picture that emerges is that legislative proposals largely stem from public sector organizations in response to the active advocacy of social sector organizations. All sectors, however, appear to provide input and to review legislation that affects cultural resources to a notable degree, demonstrating the close-knit nature of a fairly small field.



**FIGURE 44.** Graph indicating all responses to MHQ question #30 pertaining to the overall direction of the field of maritime heritage preservation, as viewed by respondent organizations.



Despite all the challenges organizations in the field of maritime heritage preservation face, prominently including funding concerns, over half of all respondents noted an overall positive trend in the direction of the field (Figure 44). The public sector is the most optimistic in this regard, with nearly two-thirds of its organizations responding in this manner. They are followed closely by the social sector whose positive response rate approaches 60 percent. The majority of private sector organizations, on the other hand, indicated an indiscernible change in direction. Overall, more than a third of organizations share this last impression, leaving only a small minority feeling that the general trend is heading in a negative direction.

## CHAPTER V

### CONCLUSIONS

Stewardship of the nation's maritime heritage is not something new for the United States. The NPS, the leading public sector agency responsible for historic preservation, began its long association with underwater archaeology in the 1930s with the salvage of Revolutionary War artifacts from Virginia's York River at Colonial National Historical Park. Projects were subsequently undertaken in the 1950s to search for a colonial fort at Fort Caroline National Memorial in Florida, and NPS was involved with the recovery of the Civil War ironclad USS *Cairo* near Vicksburg National Military Park, Mississippi. Additional surveys followed in the 1960s at Point Reyes National Seashore, California, and Montezuma's wall in 1968 (Aubry and Stright 1999:55; Lenihan 1996). The very first of the NOAA's National Marine Sanctuaries, designated in 1975, was established to protect the Civil War-era shipwreck USS *Monitor* (Zander and Varmer 1996). By 1985 Congress had directed the NPS to work with the NTHP and the marine preservation community to inventory the nation's maritime resources and recommend priorities, standards, and appropriate roles for the government and the private sector (Delgado 1987). This initiative demonstrated foresight in inventorying maritime cultural resources that extended across the spectrum to ships, aids to navigation, maritime complexes, maritime document collections, artifact collections, in addition to intangible resources (Delgado 1987).

Concurrently, however, the breadth and depth of the challenge was coming into focus. In the same article used to publicize the aforementioned inventory initiative, Delgado (1987) declared that a national emergency existed in maritime preservation, as indicated by the less than 200 historic vessels listed among the then-47,000 entries of the NRHP. Around the same time, the House Interior Committee and its Subcommittee on Public Lands asked the Office of Technology Assessment to develop a report analyzing technologies for underwater archaeology and maritime preservation. The report not only incorporated shipwrecks and lost objects, but also submerged prehistoric sites, and called for a coherent national policy for managing them. Underwater and maritime cultural resources were deemed to be vulnerable to a wide variety of natural and manmade threats. A lack of national and state inventories of underwater archaeological sites and maritime historical resources had impeded efforts to protect them (U.S. Congress 1987). A few years earlier, seeing emboldened looters challenging the AA and its inability to effectively serve as a disincentive strong enough to protect the nation's archaeological sites, the Society for American Archaeology approached Congress and successfully lobbied for the enactment of the ARPA in 1979 (Hutt, et al. 1999:188-189). In the same timeframe, recognizing the need to extend protective measures to submerged cultural resources, a bill was introduced in Congress declaring any abandoned historic shipwreck on the OCS the property of the United States. Though this provision was later dropped and after 1983 proposals only applied to the 3-mile territorial sea, by 1987 legislative efforts had culminated in the ASA (Elia 2000:47; Stevens 1992:593).

The ASA, however, did not equate to the ARPA. A few years later, through the National Maritime Heritage Act of 1994, Congress asserted that national, state, and local groups had been working independently to preserve the nation's maritime heritage and that contemporary governmental and nongovernmental historic preservation programs were inadequate. The result was that historic resources were being lost or substantially altered with increasing frequency. Characteristically, Congress noted that a coordinated national program was needed to immediately redress adverse consequences of "a period of indifference" (16 U.S.C. 74 §5401[7]). By then, the staggering number and breadth of potential submerged archaeological sites within the National Park System was being recognized (Lenihan 1996). Federal agencies such as the NOAA began turning their attention to submerged prehistoric sites. Terrell (1995a; 1995b) noted that Grey's Reef National Marine Sanctuary located 17.5 miles off the present-day coast of Georgia was examining the possibility of prehistoric sites within their sanctuary area, while items culturally identified with the Chumash Indians had been recovered from the seabed in the Channel Islands National Marine Sanctuary. The MMS (now the BOEM) was publishing about Ray Hole Spring, an 8,000-year old sinkhole more than 20 miles out from the Florida coast (Anuskiewicz and Dunbar 1993; Elia 2000:49) Though private and social sector organizations are to this day encouraging their public sector peers to place equal value on cultural resources, inundated and terrestrial, historic, or prehistoric, the nation is now in a different place than it was in the 1970s.

As recognized by organizations responding to the MHQ, significant advancements have been made in archaeological methodology and interpretation brought

about by technological developments in remote-sensing capabilities. The accomplishments of the sampled group of organizations alone indicate the current breadth of thinking about maritime heritage sites of all sorts, the importance of public awareness, national and international collaboration, and heritage preservation. The UNESCO Convention on the Protection of the Underwater Cultural Heritage has set international standards of practice, complementing UNCLOS, which was not aimed and not up to the same task. The National Historic Lighthouse Preservation Act of 2000 aimed at taking care of the lighthouses Delgado (1987) described as tumbling into the sea. The SMCA has declared that state military vessels enjoy sovereign immunity. The National Marine Sanctuary System, which has grown to include fourteen protected areas that together encompass more than 150,000 square miles, is managed under a multiple-use scheme that places priority on the protection of sanctuary resources, including submerged cultural resources (Hutt, et al. 1999-476; U.S. Department of Commerce 2009). This integration in management of maritime cultural and natural resources has made its way into state law. As noted above, New Jersey imposes a duty on persons conducting archaeological research which significantly affects the usefulness of a shipwreck for fisheries purposes to compensate for the loss by creating an artificial reef of equal habitat volume. Within the same statute, historic and archaeological resources are broadly defined as including objects, structures, shipwrecks, buildings, neighborhoods, districts and man-made or man-modified features of the landscape and seascape. We are now closing the knot and discussing maritime cultural landscapes, not individual sites. The temporal horizons of significance are also shrinking when it comes

to submerged cultural resources. The state of North Carolina asserts title to all such resources that have remained unclaimed for more than 10 years.

At the same time, readers examining the section above on state laws will note that a number of state statutes still equate submerged cultural resources to treasure troves, issuing salvage permits and disbursing the recovered artifacts, or sometimes simply accepting a cash value equivalent of whatever percentage is afforded to them. This discrepancy between the treatment of maritime heritage resources above and below water is even found within individual state statutes. Washington, which on land, both public and private, places a prohibitive veil over any disturbance of archaeological resources, allows the discoverer of a historic shipwreck first right of refusal for future salvage, and judges fair compensation for a salvor to be no less than 90 percent of the appraised value of recovered objects, whether in objects or cash. Title to recovered objects is transferred at the time a permit is issued, before recovery has even taken place. In another paradoxical move, historic aircraft, as opposed to shipwrecks, may only be salvaged for a museum, historical society, non-profit organization, or government entity; title can only legally be transferred to the same. This is not meant to isolate the state of Washington. In fact, in subsequent regulations, authorities require salvors to mitigate damage to archaeological resources when operations are authorized by the authorities and also reserve the right to refuse a permit for a proposed salvage operation if it would destroy a site beyond mitigation. Nor is it only states that have challenging or unclear mandates. The JPAC directs its efforts toward more recent maritime heritage resources, those less than 100 years old, which are not commonly protected in the international

arena. The NHHHC noted that different provisions apply in the case of sunken historic aircraft when compared to contemporary shipwrecks, something which has challenged cultural heritage managers.

These legal mandates, including the now-weakened ASA, have resulted in a system of overlapping statutes, jurisdictions, as well as an understandable uncertainty among the public about which resources are protected and which are not. For a field so dependent on public support as that of historic preservation, the inability to present a clear message to constituents severely hinders the capabilities of its heritage stewards. Twenty-five years after the Office of Technology Assessment declared the need for a national policy to manage submerged cultural resources and nearly 20 since the National Maritime Heritage Act called for an immediate program to address the preceding period of indifference, the United States still has no coherent policy regarding the protection and management of underwater cultural heritage and its maritime heritage resources. Historic ships rot and threaten to sink at their moorings, maritime artifacts and archives languish without adequate conservation and cataloging, and shipwrecks are wrenched from the bottom by dredging or are looted by treasure hunters. These words were written twenty-five years ago, but largely still apply today (Delgado 1987). Shortly thereafter, Carell (1996) noted that if treasure hunting and archaeology were two species competing for the same resource for survival, archaeology was losing, and losing badly. It is hard to argue that archaeology, which one should note represents the public interest, has proven to be the fittest. Not when the state of Rhode Island feels forced to turn to admiralty law

over “anemic historic preservation” mandates to care for its resources (see respondent comment above).

Two pressing issues have prevented such a coherent policy from materializing. In the case of maritime heritage resources on land, the primary handicap is funding, as the legal framework in place sufficiently preserves most from adverse effects. When it comes to submerged cultural resources, the legislative framework itself requires revising. Resolving both of these issues depends on the maritime heritage field raising its level of public support and actively advocating for the resources it values. Over 80 percent of all respondents to the MHQ indicated that public outreach is important, with more than 50 percent opting to describe it as very important. The vast majority of respondents, approaching or exceeding three-quarters of organizations, participated in some manner in each of the prescribed outreach methods included in the MHQ. At the same time, over 90 percent of respondent organizations noted a dependency, to various degrees, on federal funding, and more than 80 percent on state funding. These must be, and are, recognized as public funds. Public donations and individual member contributions support more than half of respondent organizations. The importance of both public outreach and public funds were exemplified most recently by the experience reported by the Texas Historical Commission. Public support, according to the organization’s own submission, saved the agency from elimination following what may have been the largest public letter-writing campaign to save any Texas state agency. The encouraging sign is the self-recognition evidenced by the responses of a large number of organizations deeming public support as critical, and expressing that more needs to be



done to convey the message of maritime heritage preservation. What is needed, however, is a clear message these and other organizations can go to the public with; as expressed by many social sector organizations, at present there is not one.

The AA has been challenged in the courts and superseded by the ARPA, which does not apply in the OCS. The AHPA has been deemed an anachronism since the coming of the NHPA, while the ASA's core term, "abandoned" remains, paradoxically, both undefined in statute and over-defined (often in conflicting manners) by the courts. Within the coastal regions and up to three miles from the coasts, the discrepancies between approaches to submerged cultural resources from state to state are hard to reconcile in the eyes of the public. There is no federal government standard, however, for state proponents to turn to as an example. Although the United States exercises maritime jurisdiction outward from the coast to 200 nautical miles, protection of submerged cultural resources beyond state territorial waters is sporadic, limited, and variable (Elia 2000:53). To afford it, resources must qualify as sunken military craft, or fall within the boundaries of a National Marine Sanctuary or a mineral-extraction site controlled by a federal agency. The BOEM estimates that there are well over 4,000 historic shipwrecks in the Gulf of Mexico alone that could potentially meet the eligibility criteria for the NRHP. The agency has not only sponsored a significant number of studies on the topic but also proceeded through regulations (30 C.F.R. 250.194) to require lessees to not "unnecessarily jeopardize or harm a cultural resource which has been identified or is believe to exist" (Bureau of Ocean Energy Management 2011f; Garrison, et al. 1989:I-1; Irion 2002). Yet even those spared by "Section 106" when first

identified are in peril subsequent to the conclusion of the undertaking that triggered it. Elia (2000:48) refers to this area as a “free-for-all zone” exposed to admiralty claims by treasure hunters and subject to damage from activities affecting the continental shelf.

A number of proposals have been put forward to address the status quo, which both pro-preservation and pro-salvage proponents have recognized as unsustainable. Wilder (2000:105) has suggested giving incentives to salvors to preserve sites by factoring efforts to preserve the archaeological character of wreck sites into the salvage award equation. Among the recommendations made by Watts et al. (1996) was for regulatory agencies to require that salvors maintain the same level of site documentation as archeologists. Standards for mapping and recording, they argue, should be spelled out in salvage contracts. Along the same lines, Zander and Varmer (1996) put forward a proposal for a multiple-use permitting system that would address the interests of salvors, divers, historians, and archeologists (among others), while ensuring that the information derived from submerged cultural resources would be available to the public. The recent case of the “Dunkirk Schooner” suggests that such an approach might be challenging to implement, which is why some like Elia (2000:46) have dismissed it as an idealistic notion to unrealistically promote alliances between two groups (salvors and archeologists) which have such fundamentally opposed core values, goals, methods, and interests (Toner 2011). Elia (2000:54) in particular suggests amending the ASA or replacing it with a consistent, comprehensive legal regime to control underwater cultural heritage within the EEZ; excluding the application of salvage law to underwater cultural heritage within that area; and developing a new federal preservation authority to manage

submerged cultural heritage. The challenge here, of course, is building enough support for an entirely new regulatory framework, with an entirely new preservation authority superseding or juggling between the authorities of the multiple existing jurisdictions.

What is presented below is a series of suggestions that are aimed at clarifying the preservation message, yet working within the established framework to do so, taking into account budgetary, political, and practical limitations. Some of the suggestions are more procedural in nature, though others would require significant amendments which themselves might be viewed as idealistic. The counter-argument would be that it is time; it is time to develop the national policy that has eluded the country for the last quarter-century, and that such a policy requires structural changes. Though they should be viewed as a whole, given that many are inter-related, it is hoped that some of the recommendations below may also be worth considering independently. What is presented here is not necessarily the only viable solution forward, nor is it necessarily the best, or better than those presented thus far. However, as recognized by a broad swath of MHQ respondents and their predecessors, the current system is not favoring the preservation of the nation's maritime heritage, and in particular its submerged cultural resources. Preservationists require a coherent, clear, well-supported and well-defined message to take to the public and make it relevant. The suggestions below aim at helping the community achieve such a message by emphasizing standardization, uniformity, and collaboration. Recommendations are divided into two sections, those pertaining to structural changes, and those concerning procedural modifications.

## RECCOMENDATIONS

### *Structural*

- *Ratify UNCLOS.* The recently renewed emphasis on ratifying UNCLOS, as evidenced by the 2010 Interagency Ocean Policy Task Force Final Recommendations to the White House Council on Environmental Quality should be supported (The White House Council on Environmental Quality 2010a). Article 303 of the Convention would offer the United States a sound foundation needed to control traffic in objects of an archaeological and historical nature within its contiguous zone, presuming their unauthorized removal would result in an infringement of applicable laws within its territory or territorial sea.
- *Declare public ownership of lands beneath the Territorial Sea.* While the SLA affords states ownership of lands beneath navigable waters within state boundaries, the United States maintains title to any lands lawfully acquired by or ceded to the United States. The United States already exercises full sovereignty and jurisdiction over the territorial sea, including its bed and subsoil as declared in Presidential Proclamation 5928. It should assert public ownership over such lands beneath the territorial sea and outside state boundaries in order to enable the application of pertinent laws to this area.
- *Amend ARPA.* ARPA serves as the main source of preservation measures for the breadth of archaeological resources on land but has thus far been prevented from applying to the OCS. ARPA should be amended to allow for

its application on part of the OCS. By asserting public ownership of the lands beneath the territorial sea as suggested above, this modification would allow ARPA to apply to this region and serve a vast number of submerged cultural resources located near coastal waters. With Presidential Proclamation 7219 in mind, which specifically mentions the extension of the contiguous zone as a means of protecting the removal of cultural heritage found within 24 nautical miles of the baseline, clarify ARPA's application to the contiguous zone. The SMCA, as drafted, applies to foreign sunken military craft in the contiguous zone and could be used as a precedent indicating that the U.S. government has already exercised a stewardship role within this area. In addition, ARPA's penalty provisions should be increased to serve as a disincentive and the term "vessels" should be added to the definition of vehicles subject to forfeiture. Harmonize the NHPA and ARPA by setting its temporal horizon at 50 years rather than 100 years. This would enable resources within a zone 21 miles wide bordering state territorial waters to be protected from unauthorized disturbance. The UNESCO Convention on the Protection of the Underwater Cultural Heritage has set an international precedent entitling states to regulate and authorize activities directed at underwater cultural heritage within their contiguous zones, provided the Annex Rules are applied.

- *Extend the Application of AA.* Zander and Varmer (1996) argue that, although never attempted in federal court, the United States could take the position that following Presidential Proclamation 5928 the nation has now exercised its

sovereign prerogative over submerged cultural resources out to 12 miles offshore and therefore has "control" over the submerged lands for purposes of applying the Antiquities Act. With the assertion of public ownership over such lands, such a position would be further strengthened and the application of the AA affirmed.

- *Amend the ASA.* According to 43 U.S.C. 2105(d) any abandoned shipwreck in or on the public lands of the United States is the property of the United States Government. The definitions for *public lands* within the ASA refer to the equivalent definitions in ARPA. Therefore, by amending ARPA to extend to newly declared public lands in the territorial sea, the United States would also assert claim to abandoned vessels resting therein. The ASA's application should be further extended to the outer reaches of the EEZ, thus affording some protection to historic shipwrecks located beyond the contiguous zone. While UNCLOS provides no explicit protection for submerged cultural heritage within the EEZ, international precedent exists, and a number of nations have extended their cultural heritage authority to encompass the continental shelf, including Australia, Ireland, Portugal, Spain, and Jamaica (Elia 2000:45). Furthermore, amend the ASA by adding a definition of abandoned that specifies a 50-year temporal horizon when no attempts at reclaiming the property have been undertaken. This would harmonize the statute with the NHPA (and ARPA, if so amended), and fall mid-way between temporal horizons set by state statutes in enacting the ASA (10 years

in North Carolina – pre-20<sup>th</sup> century in Mississippi). The ASA has an inherent problem in that abandonment has to be proven for a shipwreck to be declared state or federal property, which oftentimes requires its investigation and identification. The proposed amendment to the ASA does not directly address this issue other than to serve as a clear boundary line to would-be salvors in the case of historic wooden vessels, which would be presumed abandoned by the 50-year temporal horizon. Other proposed modifications to the term “abandoned” may prove more effective in this regard. Also, the ASA would serve as the only statute, beyond the NHPA and NEPA, to apply to submerged cultural resources beyond the contiguous zone. This would limit the breadth of the type of resources afforded protection in the EEZ, as compared to the contiguous zone and landwards. Other types of resources would need to be covered through the reauthorized NMSA (see below).

- *Enhance the NOAA’s role and expand the Maritime Heritage Program and review the BOEM role.* A federal agency would have to be identified as responsible for the submerged cultural resources now belonging to the public based on the extension of the ARPA’s applicability to the limits of the contiguous zone and the ASA’s applicability to the EEZ limits. The NOAA serves as the nation’s public entity dedicated to ocean mapping, surveying, charting, environmental monitoring, and coastal zone management. It maintains the National Marine Protected Areas Center, the National Marine Sanctuary System (which already extends to the EEZ), as well as an active

Maritime Heritage Program. It would, therefore, serve as the natural candidate to be assigned responsibility for the submerged cultural resources present within the currently defined OCS. This is a significant responsibility which would require additional funds to be allocated for this purpose, and likely an internal restructuring given that the Maritime Heritage Program's responsibilities would exceed the scope of the National Marine Sanctuary Program. Re-authorizing the NMSA as proposed would support the NOAA's increased role and aid in preparing the proposed site selection list identifying and justifying priority sites for designation as national marine sanctuaries. Subsequent designation of site-specific National Marine Sanctuaries should emphasize the agency's renewed role in the OCS. Given the significant investment the BOEM has already made in identifying, documenting, and preserving submerged cultural resources beyond the contiguous zone, as well as its continuing responsibilities to oversee "Section 106" reviews within the OCS, the BOEM might also be a suitable candidate to undertake this role, particularly when it comes to abandoned shipwrecks in the EEZ. Perhaps an appropriate distribution of responsibilities would be for the NOAA to serve as the primary steward pertaining to the ARPA and the contiguous zone, as well as areas that fall within National Marine Sanctuaries, and the BOEM to oversee the extended applicability of the ASA within the EEZ.

- *Amend and re-authorize the National Maritime Heritage Act.* The NPS serves the nation as the pre-eminent agency responsible for historic preservation



standards and practices. The NMHA originally aimed at establishing a forum within NPS where stakeholders involved in maritime heritage preservation could coordinate initiatives, policies, set standards, and decide on where the field should allocate resources in the form of grants. This vital function should be re-authorized, and a new funding scheme should be developed to ensure the sustainability of the grants program outlined in the NMHA. Not only does such a program afford the opportunity to coherently prioritize resources, but it also allows the NPS, the NTHP, SHPOs, and the National Maritime Heritage Grants Advisory Council to set the tone in preservation efforts by highlighting areas in need of support. The re-authorized NMHA should allow for grant program funding to be sourced not only from the public sector, but also from the private sector. Numerous foundations and companies involved in the maritime sector could provide funding for individual grants, coordinated through the NPS and the Advisory Council and issued jointly. The National Geographic Foundation partnership with the Waitt Institute may serve as a model to consider (National Geographic Society 2012)

- *Consolidate the management of sunken military craft.* The General Services Administration, which is responsible for Confederate sunken military craft, as well as the Coast Guard and the military services should consolidate the management of the nation's sunken military craft under a single program. This might involve creating a new joint office or enhancing the capabilities

and responsibilities of the NHHC, which at the moment has the most developed program and is also responsible for the vast majority of the nation's sunken military craft.

- *Develop a national inventory of maritime heritage resources.* Re-initiate efforts within the NPS to develop a national inventory of maritime heritage resources to include all those that are not submerged and included in the national submerged cultural heritage inventory (below). Utilize the forum provided by the re-authorized to enhance inventorying efforts and solicit stakeholder input.
- *Develop a national submerged cultural heritage inventory and standardized database access policies.* Develop a single federal database pertaining to submerged cultural heritage sites located under federal jurisdiction. This would involve a partnership among the BOEM, the NOAA, the NPS, and the NHHC (or the newly founded joint office) and be built on current initiatives such as the Multipurpose Marine Cadastre and the Coastal Marine Spatial Planning Program. The need for increased collaboration in this arena was identified two decades ago (Aubry 1992; Minerals Management Service N.d.; Sanctuary Enhancement Act of 2008:7). Notably, the proposed re-authorization of the NMSA would include a comprehensive identification of the nation's maritime heritage resources and a national inventory (Sanctuary Enhancement Act of 2008:8-9). Given that various federal agencies require access to such information for management purposes, and can contribute data

already included in their inventories, this initiative should be a joint one. Such a practice would also help to begin standardizing database access practices, as the primary federal agencies involved in maritime heritage preservation would adopt a communal access policy. Establishing access criteria could lead to the development of a list of registered users, as applied in the case of the Texas Historical Commission, which could selectively be afforded access to the whole or parts of the dataset, as in the JPAC model. State agencies could therefore be granted access to data most pertinent to their management responsibilities and also contribute such data to the database. Social sector and private sector researchers could be granted access to data specifically pertaining to their prescribed objectives or area of operations, if they meet the registered users criteria. Overall, such an initiative between federal agencies could be addressed within the forum re-established by the amended NMHA.

- *Develop a common federal archaeological permit application.* Based on the federal archeology program guidelines and ARPA, develop a single application form which would satisfy the majority of the needs of all federal agencies managing submerged cultural resources. Cover pages or appendices could be amended to meet specific provisions of supporting statutes (e.g., regulations implementing the NMSA or SMCA) not required by other organizations. A standardized form would increase the familiarity of researchers with what is required of them and enable a more efficient and

effective permitting process. It would also enable a single permit application to be filed (as opposed to the two or more required at present) and a more streamlined process in the case of resources falling under joint jurisdiction (e.g., a sunken military craft in a National Park). In doing so, a common application would assist federal agencies to resolve outstanding issues over sites that fall under joint jurisdiction. Overall, such an initiative between federal agencies could also be addressed within the forum re-established by the amended NMHA.

- *Establish a single set of federal surveying standards and support their adoption by states.* A single set of federal surveying standards for maritime archaeological purposes would enable a coherent policy to be conveyed to private sector organizations regarding what is required when surveying for submerged cultural resources across federal waters, regardless of agency jurisdiction. The establishment of such a set of survey standards would enable state agencies to point to a protocol and require those seeking to meet state requirements to follow the same. A lack of (or conflicting) standards do not support what should be perceived as a common goal, and may lead to unnecessary expenditure of resources. Such an initiative between federal agencies could also be addressed within the forum re-established by the amended NMHA.

### *Procedural*

- *Develop a national register/society of maritime archaeology professionals.*  
Modeled along the Register of Professional Archaeologists (RPA), a national association of maritime archaeologists would allow for the field as a whole to set priorities, voice concerns, advocate for, and establish what constitute professional standards. Recognition of membership might also enhance collaborative efforts (e.g., recognized reciprocity along the lines of an AAUS scientific diver) and enable database access procedures to become standardized for maritime heritage professionals. The ACUA, which serves a very important advocacy role already, could also serve as the institutional home for such a register, or it could be based within the RPA itself.
- *Advocate for programs that support maritime heritage preservation.* A number of public programs and initiatives introduced in this study have waxed and waned in public support, in the process eliminating vital funding sources for preservation purposes (e.g., American Heritage Rivers, Save America's Treasures). As indicated by the MHQ responses, the social sector overwhelmingly realizes the importance of public advocacy, something which also does not elude the public or private sectors. A concerted effort to reach out and develop or support programs that hold promise or are under consideration for elimination may enable continuing or new sources of funds to become available within the field. The *National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes* includes an objective to

respect and preserve our nation's maritime heritage, which incorporates social, cultural, recreational, and historical values. The CZMA may allow for grant funds that were not previously considered as a source by certain organizations given that one of its priorities is the redevelopment of deteriorating urban waterfronts and ports, and preservation of historic, cultural, and aesthetic coastal features. The Transportation Enhancement Activities Program, on the other hand, is being challenged due to budgetary constraints, the NOAA's Office of Ocean Exploration did not issue grants in FY12, while the NMHA's grant program is also temporarily suspended. Supporting such initiatives as a coordinated group, perhaps via the national register of maritime archaeologists mentioned above, as well as through the ACUA, the SHA, and the RPA, may allow for improved funding prospects in the future.

- *Coordinate public outreach initiatives.* Develop a network of interested organizations through which to engage in outreach-centered studies aimed at establishing the efficacy of different methods. Given the breadth and depth of outreach activities that MHQ respondents engaged in, it was intriguing to note that an organization's website presence and in-person lectures were by far judged to be the most effective means of engaging with the public. For a field so dependent on public support, a renewed emphasis must be placed on effective public outreach practices. This is something acknowledged by recent publications and by dedicated professional sessions such as the ones

hosted at the 2012 Annual Conference on Historical and Underwater Archaeology (Jameson and Scott-Ireton 2007). Establishing a track record of proven techniques would enable limited resources to be concentrated on activities that produce the most effective results. The ACUA's Submerged Cultural Resources Awareness Workshops remind one of the importance of public outreach within the professional community and the general public.

- *Enhance coordination between the academic community and its public and professional partners.* Based on the results of the MHQ, four things become apparent when considering the relationship between academic programs and the public and private sectors: 1) growth prospects for the field as a whole are currently perceived to be limited, and over 80 percent of respondents felt there are more or many more qualified candidates than available positions; 2) organizations and professionals are tasked with a large variety of responsibilities that span across the activities identified in MHQ #15; 3) future professionals will be working in an increasingly multi-disciplinary field; and 4) the skills new graduates are entering the field with are not necessarily meeting the expectations of potential employers. Therefore, academic graduates are facing a particularly challenging and competitive workforce and must be exceptionally well-rounded in their training. Academic programs should conduct a review of their programs to ensure that students are being trained in the proper skills. As noted by a number of private sector organizations, these must include a thorough understanding of

cultural resource management, laws and regulations, GIS development, as well as remote-sensing data collection and analysis. To enhance such training, academic institutions may wish to consider funding or otherwise supporting student internships with public and private sector organizations. Additionally, partnerships could focus specifically on remote-sensing data analysis, whereby private sector organizations could partner with universities to develop programs that would ultimately benefit both. One example of such a partnership would involve a university providing the training venue and the computer hardware, with a private organization supporting the program through software licenses and collected data that could be utilized in student training. Such a partnership might also enable private sector organizations to undertake additional pro-bono initiatives, given that data processing could be assigned to student trainees.

- *Abandon the use of the term* treasure-hunter. An issue that multiple MHQ respondents noted was a dichotomy in the public sphere between “treasure hunting” and archaeology, and an inability on behalf of heritage specialists to make the public aware of the difference. In combating what Maryland carefully phrased as the “media glorification of unethical artifact recovery,” one step is to diminish the perceived appeal of such activities. Heritage specialists should recognize that among the general public the term *treasure-hunter* evokes an individual with entrepreneurial spirit who invests effort and resources to chase one’s fortune and discover long-lost treasure. It does not



necessarily carry the negative connotations the term has among heritage specialists, who in turn are often seen as naysayers by members of the public. The term *looter*, on the other hand, which may describe the very same activity, sets a very different tone; the term *salvor*, when applicable, a more neutral one. The preservation community should not inadvertently romanticize the illegal recovery of artifacts from public cultural resources, and in doing so jeopardize their position among public sentiment by referring to looters and salvors as *treasure-hunters*. Instead, they should set the frame of reference by making clear where the moral authority lies. This in itself will not end the activity from taking place, but it may help win the public debate. It may also begin the long process of disassociating shipwrecks with treasure, a connotation further perpetuated by referring to looters and salvors as treasure-hunters (even if the vessel under question carries no treasure).

## **SUMMARY**

What binds together the vast majority of the recommendations put forth above is a drive towards increased collaboration between the field's public, social, and private sector organizations. At a time with acutely limited resources and continuing challenges to the preservation of the nation's maritime heritage resources, ambitious proposals may seem challenging to undertake. Yet increased coordination among heritage specialists can only serve the field well. It also enhances the ability of preservationists to speak with a coherent message. After all, all three sectors of the field – the public, the social, and the

private – depend to a large degree on the citizenry's appreciation of their maritime heritage.

Encouragingly, this is something already recognized across the sample of organizations that participated in the MHQ. When discussing their most important recent accomplishments, a number of trends emerged among respondents; among the most prominent was an increased level of collaboration and partnerships across organizations. As a result conceptual gaps are also bridged; one organization viewed the continued integration of maritime archaeology into the field of archaeology as a whole as one of the field's greatest recent accomplishments. At the same time, enhanced collaboration and coordination increasingly appears to be the way forward in conducting operations. On the high-end policy side, this looks like the National Ocean Council, responsible for advising the President and implementing national policy, but also charged with coordinating and resolving issues of overlapping responsibility and encouraging decision-making (The White House Council on Environmental Quality 2010a:21-23). On the operational side, this is represented by efforts to identify, evaluate, document, protect, and interpret about 900 shipwrecks in the Hudson River, as undertaken by the Lake Champlain Maritime Museum, the State University of New York at Stony Brook, and the National Oceanic and Atmospheric Administration, New York's ad-hoc Committee for Submerged Natural and Cultural Resources (Archeology Program 2009b). Somewhere in between are the efforts of the Society of Historical Archaeology's UNESCO Committee, which secured a response from nine U.S. federal agencies that committed to incorporate or consider incorporating the Annex Rules of the UNESCO

Convention on the Protection of the Underwater Cultural Heritage into their guidelines (Society for Historical Archaeology 2011). The result of all these efforts will hopefully be a more integrated system of policies, laws, and practices, and through that, a clear message in favor of preserving the nation's maritime heritage resources.

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**APPENDIX A**  
**THE NATIONAL LEGAL FRAMEWORK**

- I. 10 U.S.C. 113: Sunken Military Craft
- II. 16 U.S.C. 1: National Parks, Military Parks, Monuments, and Seashores (Subchapter I: National Park Service) And (Subchapter LXI: National and International Monuments and Memorials)
- III. 16 U.S.C. 1A: Historic Sites, Buildings, Objects, and Antiquities (Subchapter I: General Provisions) And (Subchapter II: National Historic Preservation)
- IV. 16 U.S.C. 1B: Archaeological Resources Protection
- V. 16 U.S.C. 32: Marine Sanctuaries
- VI. 16 U.S.C. 33: Coastal Zone Management
- VII. 16 U.S.C. 74: National Maritime Heritage
- VIII. 25 U.S.C. 32: Native American Graves Protection and Repatriation
- IX. 42 U.S.C. 55: National Environmental Policy
- X. 43 U.S.C. 29: Submerged Lands
- XI. 43 U.S.C. 39: Abandoned Shipwrecks
- XII. 49 U.S.C. 3 and 23 U.S.C. 1: Transportation (“Section 4[f]”) And (Transportation Enhancement Activities)

## **I. SUNKEN MILITARY CRAFT**

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(as of January 2011)

10 U.S.C. 113: Secretary of Defense

From Title 10—ARMED FORCES

Subtitle A- General Military Law

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 2—DEPARTMENT OF DEFENSE

### **SUNKEN MILITARY CRAFT**

Pub. L. 108–375, div. A, title XIV, Oct. 28, 2004, 118 Stat. 2094, provided that:

#### **§1401. Preservation of title to sunken military craft and associated contents.**

Right, title, and interest of the United States in and to any United States sunken military craft—

(1) shall not be extinguished except by an express divestiture of title by the United States; and

(2) shall not be extinguished by the passage of time, regardless of when the sunken military craft sank.

#### **§1402. Prohibitions.**

(a) Unauthorized Activities Directed at Sunken Military Craft.—No person shall engage in or attempt to engage in any activity directed at a sunken military craft that disturbs, removes, or injures any sunken military craft, except—

(1) as authorized by a permit under this title;

(2) as authorized by regulations issued under this title; or

(3) as otherwise authorized by law.

(b) Possession of Sunken Military Craft.—No person may possess, disturb, remove, or injure any sunken military craft in violation of—

(1) this section; or

(2) any prohibition, rule, regulation, ordinance, or permit that applies under any other applicable law.



(c) Limitations on Application.—

(1) Actions by united states.—This section shall not apply to actions taken by, or at the direction of, the United States.

(2) Foreign persons.—This section shall not apply to any action by a person who is not a citizen, national, or resident alien of the United States, except in accordance with—

(A) generally recognized principles of international law;

(B) an agreement between the United States and the foreign country of which the person is a citizen; or

(C) in the case of an individual who is a crew member or other individual on a foreign vessel or foreign aircraft, an agreement between the United States and the flag State of the foreign vessel or aircraft that applies to the individual.

(3) Loan of sunken military craft.—This section does not prohibit the loan of United States sunken military craft in accordance with regulations issued by the Secretary concerned.

**§1403. Permits.**

(a) In General.—The Secretary concerned may issue a permit authorizing a person to engage in an activity otherwise prohibited by section 1402 with respect to a United States sunken military craft, for archaeological, historical, or educational purposes, in accordance with regulations issued by such Secretary that implement this section.

(b) Consistency With Other Laws.—The Secretary concerned shall require that any activity carried out under a permit issued by such Secretary under this section must be consistent with all requirements and restrictions that apply under any other provision of Federal law.

(c) Consultation.—In carrying out this section (including the issuance after the date of the enactment of this Act [Oct. 28, 2004] of regulations implementing this section), the Secretary concerned shall consult with the head of each Federal agency having authority under Federal law with respect to activities directed at sunken military craft or the locations of such craft.

(d) Application to Foreign Craft.—At the request of any foreign State, the Secretary of the Navy, in consultation with the Secretary of State, may carry out this section (including regulations promulgated pursuant to this section) with respect to any foreign sunken military craft of that foreign State located in United States waters.

**§1404. Penalties.**

(a) In General.—Any person who violates this title, or any regulation or permit issued under this title, shall be liable to the United States for a civil penalty under this section.

(b) Assessment and Amount.—The Secretary concerned may assess a civil penalty under this section, after notice and an opportunity for a hearing, of not more than \$100,000 for each violation.

(c) Continuing Violations.—Each day of a continued violation of this title or a regulation or permit issued under this title shall constitute a separate violation for purposes of this section.

(d) In Rem Liability.—A vessel used to violate this title shall be liable in rem for a penalty under this section for such violation.

(e) Other Relief.—If the Secretary concerned determines that there is an imminent risk of disturbance of, removal of, or injury to any sunken military craft, or that there has been actual disturbance of, removal of, or injury to a sunken military craft, the Attorney General, upon request of the Secretary concerned, may seek such relief as may be necessary to abate such risk or actual disturbance, removal, or injury and to return or restore the sunken military craft. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

(f) Limitations.—An action to enforce a violation of section 1402 or any regulation or permit issued under this title may not be brought more than 8 years after the date on which—

(1) all facts material to the right of action are known or should have been known by the Secretary concerned; and

(2) the defendant is subject to the jurisdiction of the appropriate district court of the United States or administrative forum.

**§1405. Liability for damages.**

(a) In General.—Any person who engages in an activity in violation of section 1402 or any regulation or permit issued under this title that disturbs, removes, or injures any United States sunken military craft shall pay the United States enforcement costs and damages resulting from such disturbance, removal, or injury.

(b) Included Damages.—Damages referred to in subsection (a) may include—

(1) the reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of any sunken military craft that is disturbed, removed, or injured in violation of section 1402 or any regulation or permit issued under this title; and

(2) the cost of retrieving, from the site where the sunken military craft was disturbed, removed, or injured, any information of an archaeological, historical, or cultural nature.

**§1406. Relationship to other laws.**

(a) In General.—Except to the extent that an activity is undertaken as a subterfuge for activities prohibited by this title, nothing in this title is intended to affect—

(1) any activity that is not directed at a sunken military craft; or

(2) the traditional high seas freedoms of navigation, including—

(A) the laying of submarine cables and pipelines;

(B) operation of vessels;

(C) fishing; or

(D) other internationally lawful uses of the sea related to such freedoms.

(b) International Law.—This title and any regulations implementing this title shall be applied in accordance with generally recognized principles of international law and in accordance with the treaties, conventions, and other agreements to which the United States is a party.

(c) Law of Finds.—The law of finds shall not apply to—

(1) any United States sunken military craft, wherever located; or

(2) any foreign sunken military craft located in United States waters.

(d) Law of Salvage.—No salvage rights or awards shall be granted with respect to—

(1) any United States sunken military craft without the express permission of the United States; or

(2) any foreign sunken military craft located in United States waters without the express permission of the relevant foreign state.

(e) Law of Capture or Prize.—Nothing in this title is intended to alter the international law of capture or prize with respect to sunken military craft.

(f) Limitation of Liability.—Nothing in sections 4281 through 4287 and 4289 of the Revised Statutes ([former] 46 U.S.C. App. 181 et seq.) [see chapter 305 of Title 46, Shipping] or section 3 of the Act of February 13, 1893 (chapter 105; 27 Stat. 445; [former] 46 U.S.C. App. 192) [now 46 U.S.C. 30706], shall limit the liability of any person under this section.

(g) Authorities of the Commandant of the Coast Guard.—Nothing in this title is intended to preclude or limit the application of any other law enforcement authorities of the Commandant of the Coast Guard.

(h) Prior Delegations, Authorizations, and Related Regulations.—Nothing in this title shall invalidate any prior delegation, authorization, or related regulation that is consistent with this title.

(i) Criminal Law.—Nothing in this title is intended to prevent the United States from pursuing criminal sanctions for plundering of wrecks, larceny of Government property, or violation of any applicable criminal law.

**§1407. Encouragement of agreements with foreign countries.**

The Secretary of State, in consultation with the Secretary of Defense, is encouraged to negotiate and conclude bilateral and multilateral agreements with foreign countries with regard to sunken military craft consistent with this title.

**§1408. Definitions.**

In this title:

(1) Associated contents.—The term ‘associated contents’ means—

(A) the equipment, cargo, and contents of a sunken military craft that are within its debris field; and

(B) the remains and personal effects of the crew and passengers of a sunken military craft that are within its debris field.

(2) Secretary concerned.—The term ‘Secretary concerned’ means—

(A) subject to subparagraph (B), the Secretary of a military department; and

(B) in the case of a Coast Guard vessel, the Secretary of the Department in which the Coast Guard is operating.

(3) Sunken military craft.—The term ‘sunken military craft’ means all or any portion of—

(A) any sunken warship, naval auxiliary, or other vessel that was owned or operated by a government on military noncommercial service when it sank;

(B) any sunken military aircraft or military spacecraft that was owned or operated by a government when it sank; and

(C) the associated contents of a craft referred to in subparagraph (A) or (B),

if title thereto has not been abandoned or transferred by the government concerned.

(4) United states contiguous zone.—The term ‘United States contiguous zone’ means the contiguous zone of the United States under Presidential Proclamation 7219, dated September 2, 1999 [43 U.S.C. 1331 note].

(5) United states internal waters.—The term ‘United States internal waters’ means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured.

(6) United states territorial sea.—The term ‘United States territorial sea’ means the waters of the United States territorial sea under Presidential Proclamation 5928, dated December 27, 1988 [43 U.S.C. 1331 note].

(7) United states waters.—The term ‘United States waters’ means United States internal waters, the United States territorial sea, and the United States contiguous zone.

**II. NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES (SUBCHAPTER I: NATIONAL PARK SERVICE) & (SUBCHAPTER LXI: NATIONAL AND INTERNATIONAL MONUMENTS AND MEMORIALS)**

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(as of January 2011)

16 U.S.C. CHAPTER 1: NATIONAL AND INTERNATIONAL MONUMENTS AND MEMORIALS

From Title 16—CONSERVATION

CHAPTER 1—NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

**SUBCHAPTER I—NATIONAL PARK SERVICE**

**§1. Service created; director; other employees**

There is created in the Department of the Interior a service to be called the National Park Service, which shall be under the charge of a director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have substantial experience and demonstrated competence in land management and natural or cultural resource conservation. The Director shall select two Deputy Directors. The first Deputy Director shall have responsibility for National Park Service operations, and the second Deputy Director shall have responsibility for other programs assigned to the National Park Service. There shall also be in said service such subordinate officers, clerks, and employees as may be appropriated for by Congress. The service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified, except such as are under the jurisdiction of the Secretary of the Army, as provided by law, by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

(Aug. 25, 1916, ch. 408, §1, 39 Stat. 535; Ex. Ord. No. 6166, §2, June 10, 1933; Mar. 2, 1934, ch. 38, §1, 48 Stat. 389; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 104–333, div. I, title VIII, §814(e)(1), Nov. 12, 1996, 110 Stat. 4196.)

***Codification***

Provisions relating to the pay of certain employees have been omitted as the pay of the employees is fixed pursuant to chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees.

### *Amendments*

**1996**—Pub. L. 104–333 amended first sentence by substituting “who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have substantial experience and demonstrated competence in land management and natural or cultural resource conservation. The Director shall select two Deputy Directors. The first Deputy Director shall have responsibility for National Park Service operations, and the second Deputy Director shall have responsibility for other programs assigned to the National Park Service.” for original text which read “who shall be appointed by the Secretary and who shall receive a salary of \$4,500 per annum.”

### *Change of Name*

Office of National Parks, Buildings, and Reservations designated National Park Service by act Mar. 2, 1934, ch. 38, §1, 48 Stat. 389.

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

### *Effective Date of 1996 Amendment*

Section 814(e)(2) of div. I of Pub. L. 104–333 provided that: “The amendment made by subsection (a) [probably should be “paragraph (1)”, which amended this section] shall take effect on February 1, 1997, and shall apply with respect to the individual (if any) serving as the Director of the National Park Service on that date.”

### *Short Title of 2009 Amendment*

Pub. L. 111–11, §1(a), Mar. 30, 2009, 123 Stat. 991, provided that: “This Act [see Tables for classification] may be cited as the ‘Omnibus Public Land Management Act of 2009’.”

### *Short Title of 2008 Amendment*

Pub. L. 110–229, §1(a), May 8, 2008, 122 Stat. 754, provided that: “This Act [see Tables for classification] may be cited as the ‘Consolidated Natural Resources Act of 2008’.”

***Short Title of 2004 Amendment***

Pub. L. 108–352, §1, Oct. 21, 2004, 118 Stat. 1395, provided that: “This Act [amending sections 1a–6, 392c, 410ggg, 410ggg–1, 430h–11, 460kkk, 470h–2, 698u–4, 1244, 1249, and 1274 of this title, enacting provisions set out as notes under this section and section 502 of Title 40, Public Buildings, Property, and Works, and amending provisions listed in a table of National Historic Sites and a table of National Heritage Areas set out under section 461 of this title and a table of Commemorative Works set out under section 8903 of Title 40] may be cited as the ‘National Park System Laws Technical Amendments Act of 2004’.”

***Short Title of 2002 Amendment***

Pub. L. 107–236, §1, Oct. 9, 2002, 116 Stat. 1483, provided that: “This Act [amending section 460kk of this title] may be cited as the ‘Santa Monica Mountains National Recreation Area Boundary Adjustment Act’.”

***Short Title of 2000 Amendments***

Pub. L. 106–510, §1, Nov. 13, 2000, 114 Stat. 2363, provided that: “This Act [amending sections 391b, 391d, 392c, 396b, 396c, 396d, 397 to 397b, 397d, and 1244 of this title and section 1026 of Title 30, Mineral Lands and Mining, enacting provisions set out as notes under sections 391d, 396b, 396d, and 397 of this title, and amending provisions set out as notes under sections 1a–1 and 391 of this title, section 1005 of Title 30, provisions listed in a table of National Historic Sites set out under section 461 of this title, and provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the ‘Hawaii Volcanoes National Park Adjustment Act of 2000’.”

Pub. L. 106–176, §1(a), Mar. 10, 2000, 114 Stat. 23, provided that: “This Act [see Tables for classification] may be cited as the ‘Omnibus Parks Technical Corrections Act of 2000’.”

***Short Title of 1998 Amendment***

Pub. L. 105–391, title III, §301, Nov. 13, 1998, 112 Stat. 3501, provided that: “This title [amending section 1a–5 of this title and enacting provisions set out as a note under section 1a–5 of this title] may be cited as the ‘National Park System New Areas Studies Act’.”

***Short Title of 1996 Amendment***

Section 1 of Pub. L. 104–333 provided that: “This Act [see Tables for classification] may be cited as the ‘Omnibus Parks and Public Lands Management Act of 1996’.”



### ***Short Title of 1983 Amendment***

Pub. L. 98–141, §1, Oct. 31, 1983, 97 Stat. 909, provided: “That this Act [amending sections 459b–8, 459g–7, and 460x–14 of this title and sections 872, 874, 875, 880, and 885 of former Title 40, Public Buildings, Property, and Works, repealing section 433e of this title, and amending provisions set out as a note under section 433c of this title] may be cited as the ‘Public Lands and National Parks Act of 1983’.”

### ***Short Title of 1978 Amendment***

Pub. L. 95–625, §1, Nov. 10, 1978, 92 Stat. 3467, provided that: “This Act [enacting chapter 45 and sections 45f, 230 to 230i, 241g, 396d, 410y–1a, 441e–1, 459c–6b, 460m–15 to 460m–25, 460kk, 471i, and 1285a of this title, amending sections 1a–5, 1a–7, 273f, 282c, 283e, 397 to 397d, 410y–6, 410z, 410z–1, 430mm, 450mm–1, 450qq–4, 459c–1, 459c–5, 459e, 459e–1, 459e–6, 459e–9, 459h–10, 459i, 459i–9, 460l–8, 460m–14, 460o–1, 460q–9, 460u–9, 460aa–12, 460bb–1 to 460bb–4, 460ff–1, 460ff–3, 460ff–5, 460gg, 463, 469c, 470t, 698m, 1241, 1242, 1244 to 1247, 1249, 1273, 1274, 1276, 1277, 1283, and 1287 of this title, repealing sections 45a–3 and 688 of this title, enacting provisions set out as notes under sections 1a–5, 45a–1, 45f, 410z, 430nn, 430oo, 431, 461, 602, 688, 1246, 1274, and 2501 of this title, and amending provisions set out as notes under sections 431, 433c, 450bb, 461, and 1132 of this title] may be cited as the ‘National Parks and Recreation Act of 1978’.”

### ***Short Title of 1970 Amendment***

Pub. L. 91–383, §14, as added by Pub. L. 108–352, §10(b), Oct. 21, 2004, 118 Stat. 1397, provided that: “This Act [enacting sections 1a–1 to 1a–7a of this title, amending sections 1b, 1c, 17j, 460n–5, 463, 470a, and 559 of this title, and repealing sections 10, 10a, 17b–1, and 415 of this title] may be cited as the ‘National Park System General Authorities Act’.”

### ***Short Title***

Act Aug. 25, 1916, ch. 408, §5, as added by Pub. L. 108–352, §10(a), Oct. 21, 2004, 118 Stat. 1397, provided that: “This Act [enacting this section and sections 2, 3, and 4 of this title and amending sections 22 and 43 of this title and section 1457 of Title 43, Public Lands] may be cited as the ‘National Park Service Organic Act’.”

### ***Transfer of Functions***

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see

Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works Administrator, and functions of Commissioner of Public Buildings, and Public Buildings Administration, transferred to Administrator of General Services by act June 30, 1949, ch. 288, title I, §103(a), 63 Stat. 380. Federal Works Agency, Office of Federal Works Administrator, Office of Commissioner of Public Buildings, and Public Building Administration abolished by section 103(b) of that act. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109–313, §2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

Branch of Buildings Management of National Park Service in Department of the Interior and its functions and personnel, except those relating to monuments and memorials, and certain functions of National Park Service in connection with public buildings in District of Columbia, together with personnel engaged exclusively in such functions, transferred to Public Buildings Administration, and functions of Secretary of the Interior and Director of National Park Service relating thereto transferred to Federal Works Administrator by Reorg. Plan No. I of 1939, §§301, 303, eff. July 1, 1939, 4 F.R. 2729, 53 Stat. 1427, set out in the Appendix to Title 5.

Mount Rushmore National Memorial Commission and its functions transferred to National Park Service by Reorg. Plan No. II of 1939, §4(i), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1434, set out in the Appendix to Title 5.

Functions of administration of public buildings, reservations, national parks, national monuments, and national cemeteries, including those with respect to enumerated national cemeteries and parks of War Department located within continental limits of United States, consolidated, with certain exceptions, in National Park Service in Department of the Interior by Ex. Ord. No. 6166, set out as a note under section 901 of Title 5. Cemeteries and parks located outside of continental United States remained under War Department.

***National Park Police Drug Enforcement Supplemental Authority Act***

Pub. L. 99–570, title V, subtitle B (§§5051, 5052), Oct. 27, 1986, 100 Stat. 3207–156, as amended by Pub. L. 100–690, title VI, §6254(d)(2), Nov. 18, 1988, 102 Stat. 4365, provided that:

***SEC. 5051. SHORT TITLE.***

This subtitle may be cited as the ‘National Park Police Drug Enforcement Supplemental Authority Act’.

***SEC. 5052. NATIONAL PARK AUTHORIZATION.***

In order to improve Federal law enforcement activities relating to the use and production of narcotics and controlled substances in National Park System units, from amounts appropriated there shall be made available to the Secretary of the Interior, in addition to sums made available under other authority of law, \$3,000,000 for fiscal year 1989, and for each fiscal year thereafter, to be used for the employment and training of officers or employees of the Department of the Interior designated pursuant to section 10(b) of the Act of August 18, 1970 (16 U.S.C. 1a–6), for equipment and facilities to be used by such personnel, and for expenses related to such employment, training, equipment, and facilities.

***Codification of Laws Relating to United States Park Police; Feasibility Study and Report by Secretary of the Interior***

Pub. L. 94–533, §3, Oct. 17, 1976, 90 Stat. 2494, directed Secretary of the Interior to submit to Congress not later than one year after Oct. 17, 1976, a report on feasibility and desirability of enacting as a part of United States Code those provisions concerning powers, duties, functions, salaries, and benefits of officers and members of the United States Park Police force which presently are contained in several statutes and are compiled in District of Columbia Code.

***National Park Centennial Commission***

Pub. L. 91–332, July 10, 1970, 84 Stat. 427, provided that 1972 was to be designated by President as “National Parks Centennial Year”, in recognition in 1872 of establishment of world's first national park at Yellowstone. There was also established a National Park Centennial Commission, composed of four members of Senate, four members of House, Secretary of the Interior, and six persons to be appointed by President. The Commission was empowered to prepare a suitable plan for commemoration of establishment of Yellowstone, to coordinate all activities under such plan, and to provide host services for a world conference on National Parks in 1972. The Commission was to submit a final report of its activities, including an accounting of funds received and expended, to Congress, not later than Dec. 31, 1973, and was to cease to exist upon submission of said report.

**§1a. Repealed. June 25, 1948, ch. 646, §39, 62 Stat. 992, eff. Sept. 1, 1948**

Section, act June 28, 1938, ch. 778, §1, 52 Stat. 1213, related to residence of United States Commissioners [now magistrate judges].

**§1a–1. National Park System: administration; declaration of findings and purpose**

Congress declares that the national park system, which began with establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions; that these areas, though distinct in character, are united through their inter-related purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superb environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the System and to clarify the authorities applicable to the system. Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined in section 1c of this title, shall be consistent with and founded in the purpose established by section 1 of this title, to the common benefit of all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.

(Pub. L. 91–383, §1, Aug. 18, 1970, 84 Stat. 825; Pub. L. 95–250, title I, §101(b), Mar. 27, 1978, 92 Stat. 166.)

[OMITTED]

**§1a–5. Additional areas for National Park System**

***(a) General authority***

The Secretary of the Interior is directed to investigate, study, and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. Accompanying the annual listing of areas shall be a synopsis, for each report previously submitted, of the current and changed condition of the resource integrity of the area and other relevant factors,

compiled as a result of continual periodic monitoring and embracing the period since the previous such submission or initial report submission one year earlier. The Secretary is also directed to transmit annually to the Speaker of the House of Representatives and to the President of the Senate, at the beginning of each fiscal year, a complete and current list of all areas included on the Registry of Natural Landmarks and those areas of national significance listed on the National Register of Historic places which areas exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of such damage or threats. Each report and annual listing shall be printed as a House document: *Provided*, That should adequate supplies of previously printed identical reports remain available, newly submitted identical reports shall be omitted from printing upon the receipt by the Speaker of the United States House of Representatives of a joint letter from the chairman of the Committee on Natural Resources of the United States House of Representatives and the chairman of the Committee on Energy and Natural Resources of the United States Senate indicating such to be the case.

***(b) Studies of areas for potential addition***

(1) At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a list of areas recommended for study for potential inclusion in the National Park System.

(2) In developing the list to be submitted under this subsection, the Secretary shall consider—

(A) those areas that have the greatest potential to meet the established criteria of national significance, suitability, and feasibility;

(B) themes, sites, and resources not already adequately represented in the National Park System; and

(C) public petition and Congressional resolutions.

(3) No study of the potential of an area for inclusion in the National Park System may be initiated after November 13, 1998, except as provided by specific authorization of an Act of Congress.

(4) Nothing in this Act shall limit the authority of the National Park Service to conduct preliminary resource assessments, gather data on potential study areas, provide technical and planning assistance, prepare or process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individual areas requiring a total expenditure of less than \$25,000.

(5) Nothing in this section shall be construed to apply to or to affect or alter the study of any river segment for potential addition to the national wild and scenic rivers system or to apply to or to affect or alter the study of any trail for potential addition to the national trails system.

***(c) Report***

(1) The Secretary shall complete the study for each area for potential inclusion in the National Park System within 3 complete fiscal years following the date on which funds are first made available for such purposes. Each study under this section shall be prepared with appropriate opportunity for public involvement, including at least one public meeting in the vicinity of the area under study, and after reasonable efforts to notify potentially affected landowners and State and local governments.

(2) In conducting the study, the Secretary shall consider whether the area under study—

(A) possesses nationally significant natural or cultural resources and represents one of the most important examples of a particular resource type in the country; and

(B) is a suitable and feasible addition to the system.

(3) Each study—

(A) shall consider the following factors with regard to the area being studied—

(i) the rarity and integrity of the resources;

(ii) the threats to those resources;

(iii) similar resources are already protected in the National Park System or in other public or private ownership;

(iv) the public use potential;

(v) the interpretive and educational potential;

(vi) costs associated with acquisition, development and operation;

(vii) the socioeconomic impacts of any designation;

(viii) the level of local and general public support; and

(ix) whether the area is of appropriate configuration to ensure long-term resource protection and visitor use;

(B) shall consider whether direct National Park Service management or alternative protection by other public agencies or the private sector is appropriate for the area;

(C) shall identify what alternative or combination of alternatives would in the professional judgment of the Director of the National Park Service be most effective and efficient in protecting significant resources and providing for public enjoyment; and

(D) may include any other information which the Secretary deems to be relevant.

(4) Each study shall be completed in compliance with the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(5) The letter transmitting each completed study to Congress shall contain a recommendation regarding the Secretary's preferred management option for the area.

***(d) New area study office***

The Secretary shall designate a single office to be assigned to prepare all new area studies and to implement other functions of this section.

***(e) List of areas***

At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a list of areas which have been previously studied which contain primarily historical resources, and a list of areas which have been previously studied which contain primarily natural resources, in numerical order of priority for addition to the National Park System. In developing the lists, the Secretary should consider threats to resource values, cost escalation factors, and other factors listed in subsection (c) of this section. The Secretary should only include on the lists areas for which the supporting data is current and accurate.

***(f) Authorization of appropriations***

For the purposes of carrying out the studies for potential new Park System units and for monitoring the welfare of those resources, there are authorized to be appropriated annually not to exceed \$1,000,000. For the purposes of monitoring the welfare and integrity of the national landmarks, there are authorized to be appropriated annually not

to exceed \$1,500,000. For carrying out subsections (b) through (d) of this section there are authorized to be appropriated \$2,000,000 for each fiscal year.

(Pub. L. 91–383, §8, as added Pub. L. 94–458, §2, Oct. 7, 1976, 90 Stat. 1940; amended Pub. L. 95–625, title VI, §604(1), Nov. 10, 1978, 92 Stat. 3518; Pub. L. 96–199, title I, §104, Mar. 5, 1980, 94 Stat. 68; Pub. L. 96–344, §8, Sept. 8, 1980, 94 Stat. 1135; Pub. L. 103–437, §6(b), Nov. 2, 1994, 108 Stat. 4583; Pub. L. 104–333, div. I, title VIII, §814(d)(1)(I), Nov. 12, 1996, 110 Stat. 4196; Pub. L. 105–391, title III, §303, Nov. 13, 1998, 112 Stat. 3501.)

### ***References in Text***

This Act, referred to in subsec. (b)(4), means Pub. L. 91–383, Aug. 18, 1970, 84 Stat. 825, as amended, known as the “National Park System General Authorities Act”. As originally enacted, Pub. L. 91–383 contained sections 1 to 4, the first 3 of which enacted sections 1a–1 and 1a–2 and amended sections 1b and 1c of this title. Pub. L. 94–458 amended Pub. L. 91–383 by adding sections 5 to 12, which enacted sections 1a–3 to 1a–7, amended sections 17j, 460n–5, 463, 470a, and 559, and repealed sections 10, 10a, 17b–1, and 415 of this title. Pub. L. 103–322 amended Pub. L. 91–383 by adding section 13, which enacted section 1a–7a of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (c)(4), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

### ***Amendments***

**1998**—Subsec. (a). Pub. L. 105–391, §303(1), (2), inserted heading and struck out after first sentence “At the beginning of each fiscal year, the Secretary shall transmit to the Speaker of the House of Representatives and to the President of the Senate, comprehensive reports on each of those areas upon which studies have been completed. Each such report shall indicate and elaborate on the theme(s) which the area represents as indicated in the National Park System Plan. On this same date, and accompanying such reports, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of national significance and which may have potential for inclusion in the National Park System. Threats to resource values, and cost escalation factors shall be considered in listing the order of importance or merit. Such listing may be comprised of any areas heretofore



submitted under terms of this section, and which at the time of listing are not included in the National Park System.”

Pub. L. 105–391, §303(3), redesignated last two sentences as subsec. (f).

Subsecs. (b) to (e). Pub. L. 105–391, §303(4), added subsecs. (b) to (e).

Subsec. (f). Pub. L. 105–391, §303(3), (5), redesignated last two sentences of subsec. (a) as (f), inserted heading, and inserted at end “For carrying out subsections (b) through (d) of this section there are authorized to be appropriated \$2,000,000 for each fiscal year.”

**1996**—Subsec. (b). Pub. L. 104–333 struck out subsec. (b) which read as follows: “The Secretary shall submit to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive, ‘National Park System Plan’, which document shall constitute a professional guide for the identification of natural and historic themes of the United States, and from which candidate areas can be identified and selected to constitute units of the National Park System. Such plan shall be revised and updated annually.”

**1994**—Subsec. (a). Pub. L. 103–437, §6(b)(1), substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

Subsec. (b). Pub. L. 103–437, §6(b)(2), substituted “The Secretary shall submit to the Committee on Natural Resources” for “Within six months of March 5, 1980, the Secretary shall submit to the Committee on Interior and Insular Affairs”.

**1980**—Subsec. (a). Pub. L. 96–344 inserted provisions requiring that each report indicate and elaborate on the theme or themes which the area represents as indicated in the National Park System Plan and the annual priority listing of areas be accomplished by a synopsis, for each report previously submitted, of current and changed conditions of the resource integrity of the area or other relevant factors, to cover the period since the previous such submission or initial report submission one year earlier.

Pub. L. 96–199, §104(a), (b), designated existing provisions as subsec. (a) and inserted provision that should adequate supplies of previously printed identical reports remain available, newly submitted identical reports shall be omitted from printing upon the receipt by the Speaker of the United States House of Representatives of a joint letter from the chairman of the Committee on Interior and Insular Affairs of the United States House of Representatives and the chairman of the Committee on Energy and Natural Resources of the United States Senate indicating such to be the case.

Subsec. (b). Pub. L. 96–199, §104(b), added subsec. (b).

**1978**—Pub. L. 95–625 authorized annual appropriations of \$1,000,000 for studies for potential new Park System units and for monitoring the welfare of those resources and \$1,500,000 for monitoring the welfare and integrity of the national landmarks.

***Cold War Sites Theme Study***

Pub. L. 111–11, title VII, §7210, Mar. 30, 2009, 123 Stat. 1210, provided that:

(a) Definitions.—

(1) Advisory committee.—The term ‘Advisory Committee’ means the Cold War Advisory Committee established under subsection (c).

(2) Secretary.—The term ‘Secretary’ means the Secretary of the Interior.

(3) Theme study.—The term ‘theme study’ means the national historic landmark theme study conducted under subsection (b)(1).

(b) Cold War Theme Study.—

(1) In general.—The Secretary shall conduct a national historic landmark theme study to identify sites and resources in the United States that are significant to the Cold War.

(2) Resources.—In conducting the theme study, the Secretary shall consider—

(A) the inventory of sites and resources associated with the Cold War completed by the Secretary of Defense under section 8120(b)(9) of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1906); and

(B) historical studies and research of Cold War sites and resources, including—

(i) intercontinental ballistic missiles;

(ii) flight training centers;

(iii) manufacturing facilities;

(iv) communications and command centers (such as Cheyenne Mountain, Colorado);

(v) defensive radar networks (such as the Distant Early Warning Line);

(vi) nuclear weapons test sites (such as the Nevada test site); and

(vii) strategic and tactical aircraft.

(3) Contents.—The theme study shall include—

(A) recommendations for commemorating and interpreting sites and resources identified by the theme study, including—

(i) sites for which studies for potential inclusion in the National Park System should be authorized;

(ii) sites for which new national historic landmarks should be nominated; and

(iii) other appropriate designations;

(B) recommendations for cooperative agreements with—

(i) State and local governments;

(ii) local historical organizations; and

(iii) other appropriate entities; and

(C) an estimate of the amount required to carry out the recommendations under subparagraphs (A) and (B).

(4) Consultation.—In conducting the theme study, the Secretary shall consult with—

(A) the Secretary of the Air Force;

(B) State and local officials;

(C) State historic preservation offices; and

(D) other interested organizations and individuals.

(5) Report.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes the findings, conclusions, and recommendations of the theme study.

(c) Cold War Advisory Committee.—

(1) Establishment.—As soon as practicable after funds are made available to carry out this section, the Secretary shall establish an advisory committee, to be known as the ‘Cold War Advisory Committee’, to assist the Secretary in carrying out this section.

(2) Composition.—The Advisory Committee shall be composed of 9 members, to be appointed by the Secretary, of whom—

(A) 3 shall have expertise in Cold War history;

(B) 2 shall have expertise in historic preservation;

(C) 1 shall have expertise in the history of the United States; and

(D) 3 shall represent the general public.

(3) Chairperson.—The Advisory Committee shall select a chairperson from among the members of the Advisory Committee.

(4) Compensation.—A member of the Advisory Committee shall serve without compensation but may be reimbursed by the Secretary for expenses reasonably incurred in the performance of the duties of the Advisory Committee.

(5) Meetings.—On at least 3 occasions, the Secretary (or a designee) shall meet and consult with the Advisory Committee on matters relating to the theme study.

(d) Interpretive Handbook on the Cold War.—Not later than 4 years after the date on which funds are made available to carry out this section, the Secretary shall—

(1) prepare and publish an interpretive handbook on the Cold War; and

(2) disseminate information in the theme study by other appropriate means.

(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section \$500,000.”

### ***National Park Service Studies***

Pub. L. 106–113, div. B, §1000(a)(3) [title III, §326], Nov. 29, 1999, 113 Stat. 1535, 1501A–194, provided that:

(a) Short Title.—This section may be cited as the ‘National Park Service Studies Act of 1999’.

(b) Authorization of Studies.—

(1) In general.—The Secretary of the Interior (‘the Secretary’) shall conduct studies of the geographical areas and historic and cultural themes described in subsection (b)(3) to determine the appropriateness of including such areas or themes in the National Park System.

(2) Criteria.—In conducting the studies authorized by this Act, the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System in accordance with section 8 of Public Law 91–383 [16 U.S.C. 1a–5], as amended by section 303 of the National Parks Omnibus Management Act (Public Law 105–391; 112 Stat. 3501) [16 U.S.C. 1a–5].

(3) Study areas.—The Secretary shall conduct studies of the following:

(A) Anderson Cottage, Washington, District of Columbia.

(B) Bioluminescent Bay, Puerto Rico.

(C) Civil Rights Sites, multi-State.

(D) Crossroads of the American Revolution, Central New Jersey.

(E) Fort Hunter Liggett, California.

(F) Fort King, Florida.

(G) Gaviota Coast Seashore, California.

(H) Kate Mullany House, New York.

(I) Loess Hills, Iowa.

(J) Low Country Gullah Culture, multi-State.

(K) Nan Madol, State of Ponape, Federated States of Micronesia (upon the request of the Government of the Federated States of Micronesia).

(L) Walden Pond and Woods, Massachusetts.

(M) World War II Sites, Commonwealth of the Northern Marianas.

(N) World War II Sites, Republic of Palau (upon the request of the Government of the Republic of Palau).

(c) Reports.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives a report on the findings, conclusions, and recommendations of each study under subsection (b) within three fiscal years following the date on which funds are first made available for each study.”

***Purpose of 1998 Amendment***

Pub. L. 105–391, title III, §302, Nov. 13, 1998, 112 Stat. 3501, provided that: “It is the purpose of this title [amending this section and enacting provisions set out as a note under section 1 of this title] to reform the process by which areas are considered for addition to the National Park System.”

***Revolutionary War and War of 1812 Historic Preservation Study***

Section 603 of title VI of div. I of Pub. L. 104–333, as amended by Pub. L. 106–176, title I, §114, Mar. 10, 2000, 114 Stat. 27, enacted the Revolutionary War and War of 1812 Historic Preservation Study Act of 1996 which made congressional findings as to importance of such preservation study, defined various terms, directed Secretary of the Interior as to preparation of, matters to be included in, consultation with respect to, and report concerning such study, and authorized appropriations.

***Lower Mississippi Delta Region Initiatives***

Pub. L. 103–433, title XI, Oct. 31, 1994, 108 Stat. 4512, directed Secretary of the Interior, in consultation with Delta Region States, the Lower Mississippi Delta Development Center, the Chairs of the National Endowment for the Arts and the National Endowment for the Humanities, the Director of the Smithsonian Institution, Historically Black Colleges and Universities, State Archaeological Surveys and Regional Archaeological Centers and other appropriate institutions, to prepare and transmit to Congress a series of studies involving Delta Region heritage particularly development of Delta Region Corridors and Heritage and Cultural Centers, preservation of historic and prehistoric sites and structures, Delta antiquities survey, and comprehensive historic and archaeological resources program.

***Boston Harbor Islands Study***

Pub. L. 102–525, title V, §501, Oct. 26, 1992, 106 Stat. 3442, directed Secretary of the Interior to study within one year after Oct. 26, 1992, opportunities for National Park Service to promote conservation and use by the public of Boston Harbor Islands, and in so doing to consult local governmental authorities, to evaluate suitability of establishing Boston Harbor Islands as unit of National Park System, to assess tourism and public education opportunities of management in conjunction with nearby units of National

Park System, to evaluate possible transportation links with those units, and to submit, not later than one year after Oct. 26, 1992, a report of findings, conclusions, and recommendations to Congress.

***National Historic Landmark Theme Study on American Labor History***

Pub. L. 102–101, Aug. 17, 1991, 105 Stat. 493, directed Secretary of the Interior, in consultation with workers, workers’ representatives, scholars, and preservationists, and under cooperative agreements with scholarly and public historic organizations, to prepare and transmit to Congress, within 3 years of date of funding, a theme study to identify key sites in American labor history, to nominate districts, sites, etc., as national historic landmarks, to identify possible new park units, and to prepare a list of the most appropriate sites, and authorized appropriations of \$250,000 to carry out study.

***African-American History Landmark Theme Study***

Pub. L. 102–98, Aug. 17, 1991, 105 Stat. 485, directed Secretary of the Interior, in consultation with scholars and preservationists, and under cooperative agreements with scholarly and public historic organizations, to prepare and transmit to Congress, within 3 years of date of funding, a theme study to identify key sites in history and experience of African-Americans, to nominate districts, sites, etc. as national historic landmarks, to identify possible new park units, and to prepare a list of most appropriate sites, and authorized appropriations of \$500,000 to carry out study.

***Niobrara-Buffalo Prairie National Park Study***

Pub. L. 102–50, §8, May 24, 1991, 105 Stat. 257, directed Secretary of the Interior to study within 18 months after May 24, 1991, feasibility and suitability of establishing Niobrara-Buffalo Prairie National Park in Nebraska, including assessment of significance of natural, cultural, historic, scenic, and recreational resources and study of feasibility of managing the area by various methods, in consultation with appropriate Federal agencies, Nature Conservancy, and Nebraska Game and Parks Commission, and directed Secretary to submit study to Congress, prior to repeal by Pub. L. 105–362, title IX, §901(g)(1), Nov. 10, 1998, 112 Stat. 3290.

***Underground Railroad Study***

Pub. L. 101–628, title VI, Nov. 28, 1990, 104 Stat. 4495, directed Secretary of the Interior to conduct a study of alternatives for commemorating the Underground Railroad in order to preserve and protect this aspect of American history, directed preparation of an interpretive handbook on the Underground Railroad in larger context of American antebellum society, including history of slavery and abolitionism, and authorized

establishment of Underground Railroad Advisory Committee to meet and consult with Secretary on matters relating to the study.

***Civil War and Other Studies***

Pub. L. 101–628, title XII, §§1201–1210, Nov. 28, 1990, 104 Stat. 4503–4507, as amended by Pub. L. 102–166, title V, §501, Nov. 21, 1991, 105 Stat. 1100, provided that title XII of Pub. L. 101–628 could be cited as the “Civil War Sites Study Act of 1990”, directed Secretary of the Interior to prepare a study of Shenandoah Valley Civil War sites in order to obtain information on significance of such sites, threats to their integrity, and alternatives for their preservation, authorized establishment of Civil War Sites Advisory Commission, directed such Commission to prepare a study of historically significant sites other than Shenandoah Valley Civil War sites, and directed Secretary to undertake a complete revision of National Park Service “Thematic Framework” to reflect current scholarship on American history and culture, historic and prehistoric archeology, and architecture.

***Report to Congress on Criteria for Inclusion as Affiliated Area of National Park System***

Pub. L. 100–336, §2, June 17, 1988, 102 Stat. 617, directed Secretary, in consultation with interested conservation, professional, and park management organizations and individuals, to prepare and submit to Committee on Interior and Insular Affairs of House of Representatives and Committee on Energy and Natural Resources of Senate a report of criteria for elements of national significance and other factors necessary for a proposed area to be considered appropriate for inclusion as an affiliated area of National Park System including an analysis of applicability to Wildlife Prairie Park, this report to address responsibilities to be required of operators of an affiliated area and responsibilities of National Park Service to any such designated area, with report to be submitted not later than two years from June 17, 1988, and to provide recommendations by Secretary of the Interior including but not limited to how criteria for national significance and other factors should be made applicable to future proposed affiliated areas, when such areas are considered by the Secretary, and any criteria or procedures for such considerations by Congress including recommendations for legislative action.

***Study of Historical Camden, South Carolina, Regarding Establishment as Unit of National Park System; Transmittal to President and Congressional Committees***

Pub. L. 95–629, title IV, §401, Nov. 10, 1978, 92 Stat. 3640, directed Secretary of the Interior to prepare and transmit to President, Committee on Interior and Insular Affairs of House of Representatives, and Committee on Energy and Natural Resources of Senate a study of Historical Camden, consisting of approximately ninety acres of land in Camden, South Carolina, to determine feasibility and desirability of establishing such



area as a unit of the National Park System, with study to be transmitted not later than two years following date on which funds are appropriated for study and to include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any alternatives for administration and protection of area.

***Crow Creek Village Archeological Site, South Dakota; Feasibility/Suitability Study; Transmittal to Congressional Committees; Cost Estimates; Site Preservation***

Section 512 of Pub. L. 95–625 directed Secretary to prepare and transmit to Committee on Energy and Natural Resources of Senate and Committee on Interior and Insular Affairs of House of Representatives within two years from Nov. 10, 1978, a feasibility/suitability study of Crow Creek Village archeological site, Buffalo County, South Dakota, as a unit of National Park System, including cost estimates for any necessary acquisition, development, operation and maintenance, as well as any feasible alternatives for administration and protection of area, including, but not limited to, Federal financial and technical assistance to State of South Dakota, Buffalo County or other suitable entity, and directed Secretary of the Army to take such actions as may be necessary to preserve and protect such site from any adverse impact on site and to refrain from any activities which might cause such impact until two years from date of submission of study by Secretary.

***Ridgeland Area Study; Consultation and Coordination; Report to President and Congress; Authorization of Appropriations***

Section 602 of Pub. L. 95–625 directed Secretary to study feasibility and desirability of establishing Ridgeland area east of San Francisco Bay as a unit of National Park System, to consult with other Federal, State, and local agencies in conduct of this study, to coordinate this study with applicable local and State plans and planning activities relating to Ridgeland, and to report findings and recommendations to President and Congress not later than one year after Nov. 10, 1978.

***Oak Creek Canyon, Yavapai, Soldiers Wash-Mormon Canyon, and Chiricahua National Monument, Arizona; Studies by Secretaries of the Interior and Agriculture***

Section 605 of Pub. L. 95–625 directed Secretary, in cooperation with Secretary of Agriculture where national forest lands are involved, to conduct a study to determine suitable boundaries for Oak Creek Canyon, Yavapai, Soldiers Wash-Mormon Canyon areas in Arizona as a unit or units of National Park System, and to conduct a study of boundary of Chiricahua National Monument, Arizona, to determine appropriate location of a boundary line for additions to monument, with both reports to be submitted by Secretary to Committee on Interior and Insular Affairs of House of Representatives and Committee on Energy and Natural Resources of Senate not later than one year following date on which funds are appropriated for purpose of study.

***Irvine Coast-Laguna, California Study***

Section 608 of Pub. L. 95-625 directed Secretary to study feasibility and desirability of establishing Irvine Coast-Laguna beach area as a unit of National Park System, to consult with other Federal, State, and local agencies in conduct of this study, and to report findings and recommendations to President and Congress within six months after Nov. 10, 1978.

[OMITTED]

## **SUBCHAPTER LXI—NATIONAL AND INTERNATIONAL MONUMENTS AND MEMORIALS**

### **Short Title**

Act June 8, 1906, ch. 3060, 34 Stat. 225, which is classified generally to sections 431, 432, and 433 of this title, is popularly known as the “Antiquities Act of 1906”, and is also known as the “National Monument Act”.

### **§433. American antiquities**

Any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States, without the permission of the Secretary of the Department of the Government having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, be fined in a sum of not more than \$500 or be imprisoned for a period of not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the court.

(June 8, 1906, ch. 3060, §1, 34 Stat. 225.)

### **§431. National monuments; reservation of lands; relinquishment of private claims**

The President of the United States is authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. When such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is authorized to accept the relinquishment of such tracts in behalf of the Government of the United States.

(June 8, 1906, ch. 3060, §2, 34 Stat. 225.)

### **§431a. Limitation on further extension or establishment of national monuments in Wyoming**

No further extension or establishment of national monuments in Wyoming may be undertaken except by express authorization of Congress.

(Sept. 14, 1950, ch. 950, §1, 64 Stat. 849.)

### **§432. Permits to examine ruins, excavations, and gathering of objects; regulations**

Permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity upon the lands under their respective jurisdictions may be granted by the Secretaries of the Interior, Agriculture, and Army to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as they may prescribe: Provided, That the examinations, excavations, and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such objects, and that the gatherings shall be made for permanent preservation in public museums. The Secretaries of the departments aforesaid shall make and publish from time to time uniform rules and regulations for the purpose of carrying out the provisions of this section and sections 431 and 433 of this title.

(June 8, 1906, ch. 3060, §§3, 4, 34 Stat. 225; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### **Codification**

The last sentence only of this section was derived from section 4 of act June 8, 1906, the remainder being from section 3.

#### **Change of Name**

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

#### **Transfer of Functions**

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with permits issued under sections 431, 432 and 433 of this title and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with removal of objects of antiquity under sections 431, 432, and 433 with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of date of initial operation of the Alaska Natural Gas Transportation System,

see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

### **Secretary of the Air Force**

For transfer of certain functions relating to real property under jurisdiction of Department of the Air Force, to Secretary of the Air Force from Secretary of the Army, see Secretary of Defense Transfer Order No. 14 [§2(25)], eff. July 1, 1948.

[OMITTED]

## 16 USC CHAPTER 1: NATIONAL AND INTERNATIONAL MONUMENTS AND MEMORIALS

From Title 16—CONSERVATION

### CHAPTER 1—NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

#### **SUBCHAPTER LXI—NATIONAL AND INTERNATIONAL MONUMENTS AND MEMORIALS**

#### **§450rr. R.M.S. Titanic; international maritime memorial; findings and purposes**

##### **(a) Findings**

The Congress finds that—

(1) the R.M.S. Titanic, the ocean liner which sank on her maiden voyage after striking an iceberg on April 14, 1912, should be designated as an international maritime memorial to the men, women, and children who perished aboard her;

(2) the recent discovery of the R.M.S. Titanic, lying more than twelve thousand feet beneath the ocean surface, demonstrates the practical applications of ocean science and engineering;

(3) the R.M.S. Titanic, well preserved in the cold, oxygen-poor waters of the deep North Atlantic Ocean, is of major national and international cultural and historical significance, and merits appropriate international protection; and

(4) the R.M.S. Titanic represents a special opportunity for deep ocean scientific research and exploration.

**(b) Purposes**

The Congress declares that the purposes of sections 450rr to 450rr-6 of this title are—

(1) to encourage international efforts to designate the R.M.S. Titanic as an international maritime memorial to those who lost their lives aboard her in 1912;

(2) to direct the United States to enter into negotiations with other interested nations to establish an international agreement which will provide for the designation of the R.M.S. Titanic as an international maritime memorial, and protect the scientific, cultural, and historical significance of the R.M.S. Titanic;

(3) to encourage, in those negotiations or in other fora, the development and implementation of international guidelines for conducting research on, exploration of, and if appropriate, salvage of the R.M.S. Titanic; and

(4) to express the sense of the United States Congress that, pending such international agreement or guidelines, no person should physically alter, disturb, or salvage the R.M.S. Titanic in any research or exploratory activities which are conducted.

**Short Title**

Section 1 of Pub. L. 99-513 provided that: “This Act [enacting this section and sections 450rr-1 to 450rr-6 of this title] may be cited as the ‘R.M.S. Titanic Maritime Memorial Act of 1986’.”

**§450rr-1. Definitions**

For the purposes of sections 450rr to 450rr-6 of this title, the term—

(a) “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration (NOAA);

(b) “person” means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not

organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government;

(c) “R.M.S. Titanic” means the shipwrecked vessel R.M.S. Titanic, her cargo or other contents, including those items which are scattered on the ocean floor in her vicinity; and

(d) “Secretary” means the Secretary of State.

#### **§450rr–2. Commendation**

The Congress of the United States highly commends the members of the joint international expedition which discovered the R.M.S. Titanic.

#### **§450rr–3. International guidelines**

(a) The Administrator is directed to enter into consultations with the United Kingdom, France, Canada, and other interested nations to develop international guidelines for research on, exploration of, and if appropriate, salvage of the R.M.S. Titanic, which—

(1) are consistent with its national and international scientific, cultural, and historical significance and the purposes of sections 450rr to 450rr–6 of this title; and

(2) promote the safety of individuals involved in such operations.

(b) In carrying out subsection (a) of this section, the Administrator shall consult with the Secretary and shall promote full participation by other interested Federal agencies, academic and research institutions, and members of the public.

#### **§450rr–4. International agreement**

##### **(a) Negotiations**

The Secretary is directed to enter into negotiations with the United Kingdom, France, Canada, and other interested nations to develop an international agreement which provides for—

(1) the designation of the R.M.S. Titanic as an international maritime memorial; and

(2) research on, exploration of, and if appropriate, salvage of the R.M.S. Titanic consistent with the international guidelines developed pursuant to section 450rr–3 of this title and the purposes of sections 450rr to 450rr–6 of this title.

**(b) Consultation with Administrator**

In carrying out the requirements of subsection (a) of this section, the Secretary shall consult with the Administrator, who shall provide research and technical assistance to the Secretary.

**(c) Reports to Congressional committees on progress of negotiations and consultations**

The Secretary and the Administrator shall report semiannually to the Committee on Merchant Marine and Fisheries and the Committee on Foreign Affairs in the House of Representatives and to the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation in the Senate on the progress of the negotiations and consultations.

**(d) Notification of agreement and recommendations to Congressional committees**

Upon adoption of an international agreement as described in subsection (a) of this section, the Secretary shall provide notification of the agreement and recommendations for legislation to implement the agreement to the Committee on Merchant Marine and Fisheries and the Committee on Foreign Affairs in the House of Representatives and to the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation in the Senate.

**Abolition of House Committee on Merchant Marine and Fisheries**

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

**§450rr-5. Sense of Congress regarding conduct of future activities**

It is the sense of Congress that research and limited exploration activities concerning the R.M.S. Titanic should continue for the purpose of enhancing public knowledge of its scientific, cultural, and historical significance: Provided, That, pending adoption of the international agreement described in section 450rr-4(a) of this title or implementation of the international guidelines described in section 450rr-3 of this title, no person should conduct any such research or exploration activity which would physically alter, disturb, or salvage the R.M.S. Titanic.



**§450rr–6. Disclaimer of extraterritorial sovereignty**

By enactment of sections 450rr to 450rr–6 of this title, the United States does not assert sovereignty, or sovereign or exclusive rights or jurisdiction over, or the ownership of, any marine areas or the R.M.S. Titanic.

**III. HISTORIC SITES, BUILDINGS, OBJECTS, AND ANTIQUITIES  
(SUBCHAPTER I: GENERAL PROVISIONS) & (SUBCHAPTER II:  
NATIONAL HISTORIC PRESERVATION)**

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(as of January 2011)

16 U.S.C. Ch. 1A: HISTORIC SITES, BUILDINGS, OBJECTS, AND ANTIQUITIES  
From Title 16—CONSERVATION

**CHAPTER 1A—HISTORIC SITES, BUILDINGS, OBJECTS, AND ANTIQUITIES**

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## **SUBCHAPTER I—GENERAL PROVISIONS**

### **§461. Declaration of national policy**

It is declared that it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States.

(Aug. 21, 1935, ch. 593, §1, 49 Stat. 666.)

### **Short Title of 2006 Amendment**

Pub. L. 109–338, §1(a), Oct. 12, 2006, 120 Stat. 1783, provided that: “This Act [enacting provisions set out as a note under section 262 of Title 30, Mineral Lands and Mining, enacting provisions listed in a table of National Heritage Routes set out under

this section, amending provisions formerly set out as a note under section 1244 of this title, and amending provisions listed in a table of National Heritage and River Corridors, a table of National Heritage Areas, and a table of National Heritage Partnerships set out under this section] may be cited as the ‘National Heritage Areas Act of 2006’.”

#### **Short Title of 2005 Amendment**

Pub. L. 109–156, §1, Dec. 30, 2005, 119 Stat. 2946, provided that: “This Act [amending section 463 of this title and enacting provisions set out as a note under section 463 of this title] may be cited as the ‘Delaware Water Gap National Recreation Area Improvement Act’.”

#### **Short Title of 2000 Amendment**

Pub. L. 106–291, title I, §150(a), Oct. 11, 2000, 114 Stat. 956, provided that: “This section [enacting section 469l–2 of this title and provisions set out as a note under section 469l–2 of this title] may be cited as the ‘National Underground Railroad Freedom Center Act’.”

#### **Short Title of 1998 Amendment**

Pub. L. 105–203, §1, July 21, 1998, 112 Stat. 678, provided that: “This Act [enacting sections 469l and 469l–1 of this title] may be cited as the ‘National Underground Railroad Network to Freedom Act of 1998’.”

#### **Short Title**

Act Aug. 21, 1935, ch. 593, 49 Stat. 666, which is classified to sections 461 to 467 of this title, is popularly known as the “Historic Sites, Buildings, and Antiquities Act”.

#### **National Historic Sites**

Adams National Historic Site, Massachusetts [redesignated Adams National Historical Park by Pub. L. 105–342, §5(e), Nov. 2, 1998, 112 Stat. 3202 (16 U.S.C. 410eee et seq.)].—Designated Dec. 9, 1946.

Allegheny Portage Railroad National Historic Site, Pennsylvania.—Pub. L. 88–546, Aug. 31, 1964, 78 Stat. 752; Pub. L. 107–369, Dec. 19, 2002, 116 Stat. 3069; Pub. L. 108–352, §16, Oct. 21, 2004, 118 Stat. 1398.

Andersonville National Historic Site, Georgia.—Pub. L. 91–465, Oct. 16, 1970, 84 Stat. 989; Pub. L. 107–357, §1, Dec. 17, 2002, 116 Stat. 3014.

Andrew Johnson National Historic Site.—Aug. 29, 1935, ch. 801, 49 Stat. 958 (16 U.S.C. 450o–450q); Proc. No. 2554, Apr. 27, 1942, 56 Stat. 1955; Pub. L. 88–197, Dec. 11, 1963, 77 Stat. 349.

- Ansley Wilcox House National Historic Site (see Theodore Roosevelt Inaugural National Historic Site, New York).
- Bent's Old Fort National Historic Site, Colorado.—Pub. L. 86–487, June 3, 1960, 74 Stat. 155.
- Boston African American National Historic Site, Massachusetts.—Pub. L. 96–430, title I, Oct. 10, 1980, 94 Stat. 1845.
- Brown v. Board of Education National Historic Site, Kansas.—Pub. L. 102–525, title I, Oct. 26, 1992, 106 Stat. 3438.
- Carl Sandburg Home National Historic Site, North Carolina.—Pub. L. 90–592, Oct. 17, 1968, 82 Stat. 1968; Pub. L. 110–229, title III, §311, May 8, 2008, 122 Stat. 769.
- Carter G. Woodson Home National Historic Site, District of Columbia.—Pub. L. 108–192, Dec. 19, 2003, 117 Stat. 2873.
- Charles Pinckney National Historic Site, South Carolina.—Pub. L. 100–421, Sept. 8, 1988, 102 Stat. 1581.
- Clara Barton National Historic Site, Maryland.—Pub. L. 93–486, title I, §101(a)(1), Oct. 26, 1974, 88 Stat. 1461.
- Edgar Allan Poe National Historic Site, Pennsylvania.—Pub. L. 95–625, title V, §503, Nov. 10, 1978, 92 Stat. 3498.
- Edison National Historic Site [references to Edison National Historic Site deemed to refer to the Thomas Edison National Historical Park by Pub. L. 111–11, title VII, §7110(c)(5), Mar. 30, 2009, 123 Stat. 1198, see section 410mmm of this title].—Pub. L. 87–628, Sept. 5, 1962, 76 Stat. 428; repealed by Pub. L. 111–11, title VII, §7110(c)(4), Mar. 30, 2009, 123 Stat. 1198.
- Eisenhower National Historic Site.—33 F.R. 16031, Nov. 27, 1967; Pub. L. 91–133, Dec. 2, 1969, 83 Stat. 274.
- Eleanor Roosevelt National Historic Site, New York.—Pub. L. 95–32, May 26, 1977, 91 Stat. 171; Pub. L. 105–364, Nov. 6, 1998, 112 Stat. 3300.
- Eugene O'Neill National Historic Site, California.—Pub. L. 94–539, §§1, 2, Oct. 18, 1976, 90 Stat. 2501.
- Fallen Timbers Battlefield and Fort Miamis National Historic Site, Ohio.—Pub. L. 106–164, Dec. 9, 1999, 113 Stat. 1792; Pub. L. 106–387, §1(a) [title VII, §777], Oct. 28, 2000, 114 Stat. 1549, 1549A–46.
- First Ladies National Historic Site, Ohio.—Pub. L. 106–291, title I, §145, Oct. 11, 2000, 114 Stat. 950.
- Ford's Theatre National Historic Site, District of Columbia.—Pub. L. 91–288, June 23, 1970, 84 Stat. 322.
- Fort Bowie National Historic Site, Arizona.—Pub. L. 88–510, Aug. 30, 1964, 78 Stat. 681.
- Fort Davis National Historic Site, Texas.—Pub. L. 87–213, Sept. 8, 1961, 75 Stat. 488; Pub. L. 105–355, title V, §506, Nov. 6, 1998, 112 Stat. 3263; Pub. L. 111–11, title VII, §7118, Mar. 30, 2009, 123 Stat. 1205.
- Fort Laramie National Historic Site, Wyoming.—Proc. No. 2292, July 16, 1938, 53 Stat.

- 2461; Pub. L. 86–444, Apr. 29, 1960, 74 Stat. 83.
- Fort Larned National Historic Site, Kansas.—Pub. L. 88–541, Aug. 31, 1964, 78 Stat. 748.
- Fort Point National Historic Site, California.—Pub. L. 91–457, Oct. 16, 1970, 84 Stat. 970.
- Fort Raleigh National Historic Site, North Carolina.—Designated Apr. 5, 1941; Pub. L. 87–148, Aug. 17, 1961, 75 Stat. 384; Pub. L. 101–603, Nov. 16, 1990, 104 Stat. 3065.
- Fort Saint Marks National Historic Site, Florida.—Pub. L. 87–789, Oct. 10, 1962, 76 Stat. 807.
- Fort Scott National Historic Site, Kansas.—Pub. L. 95–484, Oct. 19, 1978, 92 Stat. 1610; Pub. L. 95–625, title XII, Nov. 10, 1978, 92 Stat. 3548.
- Fort Smith National Historic Site, Arkansas.—Pub. L. 87–215, Sept. 13, 1961, 75 Stat. 489.
- Fort Union Trading Post National Historic Site, North Dakota and Montana.—Pub. L. 89–458, June 20, 1966, 80 Stat. 211.
- Frederick Law Olmsted National Historic Site, Massachusetts.—Pub. L. 96–87, title II, Oct. 12, 1979, 93 Stat. 664; Pub. L. 105–343, Nov. 2, 1998, 112 Stat. 3203.
- Friendship Hill National Historic Site, Pennsylvania.—Pub. L. 95–625, title V, §509, Nov. 10, 1978, 92 Stat. 3509.
- Georgia O'Keeffe National Historic Site, New Mexico.—Pub. L. 96–344, §3, Sept. 8, 1980, 94 Stat. 1133; repealed by Pub. L. 98–396, title I, Aug. 22, 1984, 98 Stat. 1387.
- Golden Spike National Historic Site, Utah.—Pub. L. 89–102, July 30, 1965, 79 Stat. 426.
- Grant-Kohrs Ranch National Historic Site, Montana.—Pub. L. 92–406, Aug. 25, 1972, 86 Stat. 632; Pub. L. 105–365, Nov. 6, 1998, 112 Stat. 3301.
- Grey Towers National Historic Site, Pennsylvania.—Pub. L. 108–447, div. E, title III, §348, Dec. 8, 2004, 118 Stat. 3106.
- Hampton National Historic Site, Maryland.—Designated June 22, 1948.
- Harry S Truman National Historic Site, Missouri.—Pub. L. 98–32, May 23, 1983, 97 Stat. 193; Pub. L. 101–105, Oct. 2, 1989, 103 Stat. 675; Pub. L. 103–184, §1, Dec. 14, 1993, 107 Stat. 2243; Pub. L. 108–396, Oct. 30, 2004, 118 Stat. 2250.
- Herbert Hoover National Historic Site, Iowa.—Pub. L. 89–119, Aug. 12, 1965, 79 Stat. 510.
- Home of Franklin D. Roosevelt National Historic Site, New York.—Designated Jan. 15, 1944; Pub. L. 105–364, Nov. 6, 1998, 112 Stat. 3300; Pub. L. 106–147, Dec. 9, 1999, 113 Stat. 1717.
- Hopewell Furnace [formerly Hopewell Village] National Historic Site, Pennsylvania.—Designated Aug. 3, 1938; redesignated Sept. 19, 1985, 50 F.R. 52385.
- Hubbell Trading Post National Historic Site, Arizona.—Pub. L. 89–148, Aug. 28, 1965, 79 Stat. 584.
- James A. Garfield National Historic Site, Ohio.—Pub. L. 96–607, title XII, Dec. 28, 1980, 94 Stat. 3545.

- Jefferson National Expansion Memorial, National Historical Site, Missouri.—Designated Dec. 21, 1935
- Jimmy Carter National Historic Site, Georgia.—Pub. L. 100–206, Dec. 23, 1987, 101 Stat. 1434; Pub. L. 105–106, §1, Nov. 20, 1997, 111 Stat. 2247.
- John Fitzgerald Kennedy National Historic Site, Massachusetts.—Pub. L. 90–20, May 26, 1967, 81 Stat. 29.
- John Muir National Historic Site, California.—Pub. L. 88–547, Aug. 31, 1964, 78 Stat. 753; Pub. L. 100–563, §5, Oct. 31, 1988, 102 Stat. 2829; Pub. L. 108–385, Oct. 30, 2004, 118 Stat. 2227.
- Kate Mullany National Historic Site, New York.—Pub. L. 108–438, Dec. 3, 2004, 118 Stat. 2625.
- Knife River Indian Villages National Historic Site, North Dakota.—Pub. L. 93–486, title I, §101(a)(3), Oct. 26, 1974, 88 Stat. 1461; Pub. L. 101–430, §1, Oct. 15, 1990, 104 Stat. 959.
- Lincoln Home National Historic Site, Illinois.—Pub. L. 92–127, Aug. 18, 1971, 85 Stat. 347.
- Little Rock Central High School National Historic Site, Arkansas.—Pub. L. 105–356, Nov. 6, 1998, 112 Stat. 3268.
- Longfellow House-Washington's Headquarters [formerly Longfellow] National Historic Site, Massachusetts.—Pub. L. 92–475, Oct. 9, 1972, 86 Stat. 791; Pub. L. 111–333, Dec. 22, 2010, 124 Stat. 3581.
- Lower East Side Tenement National Historic Site, New York.—Pub. L. 105–378, title I, Nov. 12, 1998, 112 Stat. 3395.
- Lyndon B. Johnson National Historic Site, Texas [redesignated Lyndon B. Johnson National Historical Park by Pub. L. 96–607, title VI, Dec. 3, 1980, 94 Stat. 3540 (16 U.S.C. 410kk to 410kk–2)].—Pub. L. 91–134, Dec. 2, 1969, 83 Stat. 274.
- Maggie L. Walker National Historic Site, Virginia.—Pub. L. 95–625, title V, §511, Nov. 10, 1978, 92 Stat. 3510.
- Manzanar National Historic Site, California.—Pub. L. 102–248, title I, Mar. 3, 1992, 106 Stat. 40; Pub. L. 104–333, div. I, title V, §515, Nov. 12, 1996, 110 Stat. 4167.
- Mar-A-Lago National Historic Site, Florida [redesignated Mar-A-Lago National Historic Landmark by Pub. L. 96–586, §4(a)(2), Dec. 23, 1980, 94 Stat. 3386 (16 U.S.C. 467a note)].—Designated Jan. 16, 1969; Pub. L. 92–527, Oct. 21, 1972, 86 Stat. 1049; repealed by Pub. L. 96–586, §4(a)(1), Dec. 23, 1980, 94 Stat. 3386.
- Martin Luther King, Junior, National Historic Site, Georgia.—Pub. L. 96–428, Oct. 10, 1980, 94 Stat. 1839; Pub. L. 102–575, title XL, §4024, Oct. 30, 1992, 106 Stat. 4768; Pub. L. 108–314, Oct. 5, 2004, 118 Stat. 1198.
- Martin Van Buren National Historic Site, New York.—Pub. L. 93–486, title I, §101(a)(6), Oct. 26, 1974, 88 Stat. 1462; Pub. L. 111–11, title VII, §7112, Mar. 30, 2009, 123 Stat. 1201.
- Mary McLeod Bethune Council House National Historic Site, District of Columbia.—Pub. L. 97–329, Oct. 15, 1982, 96 Stat. 1615; Pub. L. 102–211, Dec. 11, 1991, 105 Stat.

1652.

Minidoka National Historic Site, Idaho.—Pub. L. 110–229, title III, §313, May 8, 2008, 122 Stat. 770.

Minuteman Missile National Historic Site, South Dakota.—Pub. L. 106–115, Nov. 29, 1999, 113 Stat. 1540.

Nicodemus National Historic Site, Kansas.—Pub. L. 104–333, div. I, title V, §512, Nov. 12, 1996, 110 Stat. 4163; Pub. L. 106–176, title I, §112, Mar. 10, 2000, 114 Stat. 27.

Ninety Six National Historic Site, South Carolina.—Pub. L. 94–393, Aug. 19, 1976, 90 Stat. 1196.

Old Philadelphia Custom House National Historic Site, Pennsylvania.—Designated May 26, 1939.

Palo Alto Battlefield National Historic Site, Texas [redesignated Palo Alto Battlefield National Historical Park by Pub. L. 111–11, title VII, §7113(a)(1), Mar. 30, 2009, 123 Stat. 1201 (16 U.S.C. 410nnn et seq.)].—Pub. L. 95–625, title V, §506, Nov. 10, 1978, 92 Stat. 3500; Pub. L. 102–304, June 23, 1992, 106 Stat. 256.

President William Jefferson Clinton Birthplace Home National Historic Site, Arkansas.—Pub. L. 111–11, title VII, §7002, Mar. 30, 2009, 123 Stat. 1188.

Pu‘ukohala Heiau National Historic Site, Hawaii.—Pub. L. 92–388, Aug. 17, 1972, 86 Stat. 562; Pub. L. 106–510, §3(e), Nov. 13, 2000, 114 Stat. 2364.

Ronald Reagan Boyhood Home National Historic Site, Illinois.—Pub. L. 107–137, Feb. 6, 2002, 116 Stat. 3.

Saint Gaudens National Historic Site, New Hampshire.—Pub. L. 88–543, Aug. 31, 1964, 78 Stat. 749; Pub. L. 106–491, Nov. 9, 2000, 114 Stat. 2209.

Salem Maritime National Historic Site, Massachusetts.—Designated Mar. 17, 1938; Pub. L. 100–349, June 27, 1988, 102 Stat. 659; Pub. L. 101–632, Nov. 28, 1990, 104 Stat. 4575.

San Juan National Historic Site, Puerto Rico.—Designated Feb. 14, 1949.

Sand Creek Massacre National Historic Site, Colorado.—Pub. L. 106–465, Nov. 7, 2000, 114 Stat. 2019; Pub. L. 109–45, Aug. 2, 2005, 119 Stat. 445.

Saugus Iron Works National Historic Site, Massachusetts.—Pub. L. 90–282, Apr. 5, 1968, 82 Stat. 72.

Sewall-Belmont House National Historic Site, District of Columbia.—Pub. L. 93–486, title II, Oct. 26, 1974, 88 Stat. 1463.

Springfield Armory National Historic Site, Massachusetts.—Pub. L. 93–486, title I, §101(a)(4), Oct. 26, 1974, 88 Stat. 1461.

Steamtown National Historic Site, Pennsylvania.—Pub. L. 99–500, §101(h) [title I, §§1–5], Oct. 18, 1986, 100 Stat. 1783–248, and Pub. L. 99–591, §101(h) [title I, §§1–5], Oct. 30, 1986, 100 Stat. 3341–248.

Thaddeus Kosciuszko Home National Historic Site, Pennsylvania.—Pub. L. 92–524, Oct. 21, 1972, 86 Stat. 1046.

Theodore Roosevelt Inaugural [formerly Ansley Wilcox House] National Historic Site, New York.—Pub. L. 89–708, Nov. 2, 1966, 80 Stat. 1101; Pub. L. 96–607, title VIII,



Dec. 28, 1980, 94 Stat. 3541.

Thomas Cole National Historic Site, New York.—Pub. L. 106–146, Dec. 9, 1999, 113 Stat. 1714.

Thomas Stone National Historic Site, Maryland.—Pub. L. 95–625, title V, §510, Nov. 10, 1978, 92 Stat. 3510.

Tuskegee Airmen National Historic Site, Alabama.—Pub. L. 105–355, title III, Nov. 6, 1998, 112 Stat. 3254.

Tuskegee Institute National Historic Site, Alabama.—Pub. L. 93–486, title I, §101(a)(5), Oct. 26, 1974, 88 Stat. 1462.

Ulysses S. Grant National Historic Site, Missouri.—Pub. L. 101–106, Oct. 2, 1989, 103 Stat. 677.

Vanderbilt Mansion National Historic Site, New York.—Designated Dec. 18, 1940.

Weir Farm National Historic Site, Connecticut.—Pub. L. 101–485, Oct. 31, 1990, 104 Stat. 1171; Pub. L. 103–449, title II, Nov. 2, 1994, 108 Stat. 4756; Pub. L. 105–363, §1, Nov. 6, 1998, 112 Stat. 3296; Pub. L. 111–11, title VII, §7102, Mar. 30, 2009, 123 Stat. 1190.

William Howard Taft National Historic Site, Ohio.—Pub. L. 91–132, Dec. 2, 1969, 83 Stat. 273; Pub. L. 107–60, Nov. 5, 2001, 115 Stat. 408.

For other historic sites included within this title, see General Index.

#### National Battlefield Sites

Cowpens National Battlefield Site, South Carolina.—Act Mar. 4, 1929, ch. 699, 45 Stat. 1558.

Fort Necessity National Battlefield Site, Pennsylvania.—Act Mar. 4, 1931, ch. 504, 46 Stat. 1522 [redesignated Fort Necessity National Battlefield by Pub. L. 87–134, §3, Aug. 10, 1961, 75 Stat. 336. See section 430rr of this title].

Shenandoah Valley Battlefields National Historic District, Virginia.—Pub. L. 104–333, div. I, title VI, §606, Nov. 12, 1996, 110 Stat. 4174; Pub. L. 106–176, title I, §115, Mar. 10, 2000, 114 Stat. 27.

Washita Battlefield National Historic Site, Oklahoma.—Pub. L. 104–333, div. I, title VI, §607, Nov. 12, 1996, 110 Stat. 4180; Pub. L. 106–176, title I, §116, Mar. 10, 2000, 114 Stat. 27.

#### National Heritage and River Corridors

Blackstone River Valley National Heritage Corridor, Massachusetts and Rhode Island (see John H. Chafee Blackstone River Valley National Heritage Corridor, Massachusetts and Rhode Island).

Cache La Poudre Corridor, Colorado.—Pub. L. 104–323, Oct. 19, 1996, 110 Stat. 3889; repealed by Pub. L. 111–11, title VIII, §8002(j), Mar. 30, 2009, 123 Stat. 1235.

Delaware and Lehigh National Heritage Corridor, Pennsylvania.—Pub. L. 100–692, Nov. 18, 1988, 102 Stat. 4552; Pub. L. 105–355, title IV, Nov. 6, 1998, 112 Stat. 3258; Pub. L. 108–199, div. H, §141, Jan. 23, 2004, 118 Stat. 443; Pub. L. 111–11, title VIII, §8202, Mar. 30, 2009, 123 Stat. 1292.

Erie Canalway National Heritage Corridor, New York.—Pub. L. 106–554, §1(a)(4) [div. B, title VIII], Dec. 21, 2000, 114 Stat. 2763, 2763A–295; Pub. L. 111–11, title VIII, §8203, Mar. 30, 2009, 123 Stat. 1294.

Gullah/Geechee Cultural Heritage Corridor, Florida, Georgia, North Carolina, and South Carolina.—Pub. L. 109–338, title II, §§295–295L, Oct. 12, 2006, 120 Stat. 1832–1837.

Illinois and Michigan Canal National Heritage Corridor, Illinois.—Pub. L. 98–398, title I, Aug. 24, 1984, 98 Stat. 1456; Pub. L. 104–333, div. I, title IX, §902, Nov. 12, 1996, 110 Stat. 4204; Pub. L. 105–355, title V, §502, Nov. 6, 1998, 112 Stat. 3261; Pub. L. 106–554, §1(a)(4) [div. B, title I, §126], Dec. 21, 2000, 114 Stat. 2763, 2763A–229; Pub. L. 109–338, title IV, Oct. 12, 2006, 120 Stat. 1850.

John H. Chafee Blackstone River Valley National Heritage Corridor [formerly Blackstone River Valley National Heritage Corridor], Massachusetts and Rhode Island.—Pub. L. 99–647, Nov. 10, 1986, 100 Stat. 3625; Pub. L. 101–441, Oct. 18, 1990, 104 Stat. 1017; Pub. L. 102–154, title I, §118, Nov. 13, 1991, 105 Stat. 1013; Pub. L. 104–208, div. A, title I, §101(d) [title I, §115], Sept. 30, 1996, 110 Stat. 3009–181, 3009–201; Pub. L. 104–333, div. I, title IX, §901, Nov. 12, 1996, 110 Stat. 4201; Pub. L. 105–355, title V, §501, Nov. 6, 1998, 112 Stat. 3261; Pub. L. 106–113, div. B, §1000(a)(3) [title III, §343], Nov. 29, 1999, 113 Stat. 1535, 1501A–202; Pub. L. 106–176, title I, §121, Mar. 10, 2000, 114 Stat. 29; Pub. L. 109–338, title VII, §§701, 702, Oct. 12, 2006, 120 Stat. 1857; Pub. L. 111–11, title VIII, §8204, Mar. 30, 2009, 123 Stat. 1295.

Ohio & Erie Canal National Heritage Corridor, Ohio (see Ohio & Erie National Heritage Canalway, Ohio).

Quinebaug and Shetucket Rivers Valley National Heritage Corridor, Connecticut and Massachusetts.—Pub. L. 103–449, title I, Nov. 2, 1994, 108 Stat. 4752; Pub. L. 106–149, Dec. 9, 1999, 113 Stat. 1726; Pub. L. 111–11, title VIII, §8201, Mar. 30, 2009, 123 Stat. 1291.

South Carolina National Heritage Corridor, South Carolina.—Pub. L. 104–333, div. II, title VI, Nov. 12, 1996, 110 Stat. 4260; Pub. L. 110–229, title IV, §§461, 473, May 8, 2008, 122 Stat. 824, 826.

#### National Heritage Areas

Abraham Lincoln National Heritage Area, Illinois.—Pub. L. 110–229, title IV, §§441–451, May 8, 2008, 122 Stat. 818–824.

Arabia Mountain National Heritage Area, Georgia.—Pub. L. 109–338, title II, §§231–242, Oct. 12, 2006, 120 Stat. 1795–1800.

Atchafalaya National Heritage Area, Louisiana.—Pub. L. 109–338, title II, §§211–221, Oct. 12, 2006, 120 Stat. 1791–1795.

- Augusta Canal National Heritage Area, Georgia.—Pub. L. 104–333, div. II, title III, Nov. 12, 1996, 110 Stat. 4249; Pub. L. 106–176, title II, §203, Mar. 10, 2000, 114 Stat. 31; Pub. L. 110–229, title IV, §461, May 8, 2008, 122 Stat. 824.
- Automobile National Heritage Area, Michigan.—Pub. L. 105–355, title I, Nov. 6, 1998, 112 Stat. 3247.
- Baltimore National Heritage Area, Maryland.—Pub. L. 111–11, title VIII, §8005, Mar. 30, 2009, 123 Stat. 1247.
- Blue Ridge National Heritage Area, North Carolina.—Pub. L. 108–108, title I, §140, Nov. 10, 2003, 117 Stat. 1274.
- Cache La Poudre River National Heritage Area, Colorado.—Pub. L. 111–11, title VIII, §8002, Mar. 30, 2009, 123 Stat. 1229.
- Crossroads of the American Revolution National Heritage Area, New Jersey.—Pub. L. 109–338, title II, §§297–297J, Oct. 12, 2006, 120 Stat. 1837–1844; Pub. L. 111–11, title VII, §7116(i), Mar. 30, 2009, 123 Stat. 1203.
- Essex National Heritage Area, Massachusetts.—Pub. L. 104–333, div. II, title V, Nov. 12, 1996, 110 Stat. 4257; Pub. L. 106–176, title II, §204, Mar. 10, 2000, 114 Stat. 31; Pub. L. 110–229, title IV, §461, May 8, 2008, 122 Stat. 824.
- Freedom's Frontier National Heritage Area, Kansas and Missouri.—Pub. L. 109–338, title II, §§261–269, Oct. 12, 2006, 120 Stat. 1807–1813.
- Freedom's Way National Heritage Area, Massachusetts and New Hampshire.—Pub. L. 111–11, title VIII, §8006, Mar. 30, 2009, 123 Stat. 1253.
- Hudson River Valley National Heritage Area, New York.—Pub. L. 104–333, div. II, title IX, Nov. 12, 1996, 110 Stat. 4275; Pub. L. 105–83, title III, §§317, 324, Nov. 14, 1997, 111 Stat. 1595, 1597; Pub. L. 106–176, title II, §206, Mar. 10, 2000, 114 Stat. 31; Pub. L. 110–229, title IV, §461, May 8, 2008, 122 Stat. 824.
- Journey Through Hallowed Ground National Heritage Area, Maryland, Pennsylvania, Virginia, West Virginia.—Pub. L. 110–229, title IV, §§401–411, May 8, 2008, 122 Stat. 802–809.
- Kenai Mountains-Turnagain Arm National Heritage Area, Alaska.—Pub. L. 111–11, title VIII, §8010, Mar. 30, 2009, 123 Stat. 1282.
- Lackawanna Valley National Heritage Area, Pennsylvania.—Pub. L. 106–278, title I, Oct. 6, 2000, 114 Stat. 814; Pub. L. 108–352, §2, Oct. 21, 2004, 118 Stat. 1395.
- Mississippi Delta National Heritage Area, Mississippi.—Pub. L. 111–11, title VIII, §8008, Mar. 30, 2009, 123 Stat. 1267.
- Mississippi Gulf Coast National Heritage Area, Mississippi.—Pub. L. 108–447, div. J, title VII, Dec. 8, 2004, 118 Stat. 3374.
- Mississippi Hills National Heritage Area, Mississippi.—Pub. L. 111–11, title VIII, §8007, Mar. 30, 2009, 123 Stat. 1260.
- Mormon Pioneer National Heritage Area, Utah.—Pub. L. 109–338, title II, §§251–260, Oct. 12, 2006, 120 Stat. 1800–1807.

- Muscle Shoals National Heritage Area, Alabama.—Pub. L. 111–11, title VIII, §8009, Mar. 30, 2009, 123 Stat. 1275.
- National Aviation Heritage Area, Ohio.—Pub. L. 108–447, div. J, title V, Dec. 8, 2004, 118 Stat. 3361; Pub. L. 111–11, title VII, §7117(d), Mar. 30, 2009, 123 Stat. 1204.
- National Coal Heritage Area, West Virginia.—Pub. L. 104–333, div. II, title I, Nov. 12, 1996, 110 Stat. 4243; Pub. L. 106–176, title II, §201, Mar. 10, 2000, 114 Stat. 31; Pub. L. 109–338, title IX, §901, Oct. 12, 2006, 120 Stat. 1862; Pub. L. 110–229, title IV, §§461, 471, May 8, 2008, 122 Stat. 824, 825.
- Niagara Falls National Heritage Area, New York.—Pub. L. 110–229, title IV, §§421–432, May 8, 2008, 122 Stat. 809–818.
- Northern Plains National Heritage Area, North Dakota.—Pub. L. 111–11, title VIII, §8004, Mar. 30, 2009, 123 Stat. 1240; Pub. L. 111–88, div. A, title I, §120, Oct. 30, 2009, 123 Stat. 2929.
- Northern Rio Grande National Heritage Area, New Mexico.—Pub. L. 109–338, title II, §§201–209, Oct. 12, 2006, 120 Stat. 1787–1790.
- Oil Region National Heritage Area, Pennsylvania.—Pub. L. 108–447, div. J, title VI, Dec. 8, 2004, 118 Stat. 3368.
- Rivers of Steel National Heritage Area [formerly Steel Industry American Heritage Area], Pennsylvania.—Pub. L. 104–333, div. II, title IV, Nov. 12, 1996, 110 Stat. 4252; Pub. L. 106–113, div. B, §1000(a)(3) [title I, §116], Nov. 29, 1999, 113 Stat. 1535, 1501A–158; Pub. L. 110–229, title IV, §§461, 472, May 8, 2008, 122 Stat. 824, 826.
- Sangre de Cristo National Heritage Area, Colorado.—Pub. L. 111–11, title VIII, §8001, Mar. 30, 2009, 123 Stat. 1224.
- Schuylkill River Valley National Heritage Area, Pennsylvania.—Pub. L. 106–278, title II, Oct. 6, 2000, 114 Stat. 819.
- South Park National Heritage Area, Colorado.—Pub. L. 111–11, title VIII, §8003, Mar. 30, 2009, 123 Stat. 1235.
- Steel Industry American Heritage Area (see Rivers of Steel National Heritage Area, Pennsylvania).
- Tennessee Civil War Heritage Area, Tennessee.—Pub. L. 104–333, div. II, title II, Nov. 12, 1996, 110 Stat. 4245; Pub. L. 106–176, title II, §202, Mar. 10, 2000, 114 Stat. 31; Pub. L. 110–229, title IV, §461, May 8, 2008, 122 Stat. 824.
- Upper Housatonic Valley National Heritage Area, Connecticut and Massachusetts.—Pub. L. 109–338, title II, §§271–280B, Oct. 12, 2006, 120 Stat. 1813–1819.
- Wheeling National Heritage Area, West Virginia.—Pub. L. 106–291, title I, §157, Oct. 11, 2000, 114 Stat. 963.
- Yuma Crossing National Heritage Area, Arizona.—Pub. L. 106–319, Oct. 19, 2000, 114 Stat. 1280; Pub. L. 109–318, §1, Oct. 11, 2006, 120 Stat. 1745.
- National Heritage Canalways

Ohio & Erie National Heritage Canalway, Ohio [formerly Ohio & Erie Canal National Heritage Corridor].—Pub. L. 104–333, div. II, title VIII, Nov. 12, 1996, 110 Stat. 4267; Pub. L. 106–176, title II, §205, Mar. 10, 2000, 114 Stat. 31; Pub. L. 110–229, title IV, §§461, 474, May 8, 2008, 122 Stat. 824, 826; Pub. L. 111–11, title VII, §7116(j), Mar. 30, 2009, 123 Stat. 1203.

#### National Heritage Partnerships

America's Agricultural Heritage Partnership, Iowa.—Pub. L. 104–333, div. II, title VII, Nov. 12, 1996, 110 Stat. 4264; Pub. L. 106–176, title III, §309, Mar. 10, 2000, 114 Stat. 34; Pub. L. 110–229, title IV, §461, May 8, 2008, 122 Stat. 824.

Champlain Valley National Heritage Partnership, New York and Vermont.—Pub. L. 109–338, title II, §§281–289, Oct. 12, 2006, 120 Stat. 1819–1824.

#### National Heritage Routes

Great Basin National Heritage Route, Nevada and Utah.—Pub. L. 109–338, title II, §§291–291L, Oct. 12, 2006, 120 Stat. 1824–1831.

### **Historic Confinement Sites**

Pub. L. 109–441, Dec. 21, 2006, 120 Stat. 3288, as amended by Pub. L. 111–88, div. A, title I, §119, Oct. 30, 2009, 123 Stat. 2929, provided that:

#### **SECTION 1. PRESERVATION OF HISTORIC CONFINEMENT SITES.**

(a) Preservation Program.—The Secretary shall create a program within the National Park Service to encourage, support, recognize, and work in partnership with citizens, Federal agencies, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the purpose of identifying, researching, evaluating, interpreting, protecting, restoring, repairing, and acquiring historic confinement sites in order that present and future generations may learn and gain inspiration from these sites and that these sites will demonstrate the Nation's commitment to equal justice under the law.

(b) Grants.—

(1) Criteria.—The Secretary, after consultation with State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations (including organizations involved in the preservation of historic confinement sites), shall develop criteria for making grants under paragraph (2) to assist in carrying out subsection (a).

(2) Provision of grants.—Not later than 180 days after the date on which funds are made available to carry out this Act, the Secretary shall, subject to the availability of appropriations, make grants to the entities described in paragraph (1) only in accordance with the criteria developed under that paragraph.

(c) Property Acquisition.—

(1) Authority.—Federal funds made available under this section may be used to acquire non-Federal property for the purposes of this section, in accordance with section 3, only if that property is within the areas described in paragraph (2).

(2) Property descriptions.—The property referred to in paragraph (2) [probably should be “(1)”] is the following:

(A) Jerome, depicted in Figure 7.1 of the Site Document.

(B) Rohwer, depicted in Figure 11.2 of the Site Document.

(C) Topaz, depicted in Figure 12.2 of the Site Document.

(D) Honouliuli, located on the southern part of the Island of Oahu, Hawaii, and within the land area bounded by H1 to the south, Route 750 (Kunia Road) to the east, the Honouliuli Forest Reserve to the west, and Kunia town and Schofield Barracks to the north.

(E) Heart Mountain, depicted in Figure 6.3 of the Site Document.

(3) No effect on private property.—The authority granted in this subsection shall not constitute a Federal designation or have any effect on private property ownership.

(d) Matching Fund Requirement.—The Secretary shall require a 50 percent non-Federal match for funds provided under this section.

(e) Sunset of Authority.—This Act shall have no force or effect on and after the date that is 2 years after the disbursement to grantees under this section of the total amount of funds authorized to be appropriated under section 4.

## **§2. DEFINITIONS.**

For purposes of this Act the following definitions apply:

(1) Historic confinement sites.—(A) The term ‘historic confinement sites’ means the 10 internment camp sites referred to as Gila River, Granada, Heart Mountain, Jerome, Manzanar, Minidoka, Poston, Rohwer, Topaz, and Tule Lake and depicted in Figures

4.1, 5.1, 6.1, 7.1, 8.4, 9.2, 10.6, 11.2, 12.2, and 13.2, respectively, of the Site Document; and

(B) other historically significant locations, as determined by the Secretary, where Japanese Americans were detained during World War II.

(2) Secretary.—The term ‘Secretary’ means the Secretary of the Interior.

(3) Site document.—The term ‘Site Document’ means the document titled ‘Confinement and Ethnicity: An Overview of World War II Japanese American Relocation Sites’, published by the Western Archeological and Conservation Center, National Park Service, in 1999.

### **§3. PRIVATE PROPERTY PROTECTION.**

No Federal funds made available to carry out this Act may be used to acquire any real property or any interest in any real property without the written consent of the owner or owners of that property or interest in property.

### **§4. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary \$38,000,000 to carry out this Act. Such sums shall remain available until expended.”

#### **Crossroads of the West Historic District**

Pub. L. 106–577, title III, §302, Dec. 28, 2000, 114 Stat. 3072, established the Crossroads of the West Historic District in Ogden, Utah, provided that the Secretary of the Interior could make grants and enter into cooperative agreements with the State of Utah, local governments, and nonprofit entities for the preparation of a plan for the development of historic, architectural, natural, cultural, and interpretive resources within the District, for implementation of projects approved by the Secretary under that development plan, for an analysis assessing measures that could be taken to encourage economic development and revitalization within the District in a manner consistent with the District's historic character, and for assisting in the restoration, repair, rehabilitation and improvement of historic infrastructure, and the preservation and interpretation of properties, within the District, set forth the application process, and authorized appropriations.

#### **Route 66 Corridor**

Pub. L. 106–45, Aug. 10, 1999, 113 Stat. 224, as amended by Pub. L. 111–11, title VII, §7304, Mar. 30, 2009, 123 Stat. 1218, authorized the Secretary of the Interior, acting through the Cultural Resource Programs at the National Park Service, to develop and

carry out programs of technical assistance, grants, and coordination of activities for the preservation of the Route 66 corridor and authorized appropriations for these purposes.

### **Chesapeake Bay Initiative**

Pub. L. 105–312, title V, Oct. 30, 1998, 112 Stat. 2961, as amended by Pub. L. 107–308, §9, Dec. 2, 2002, 116 Stat. 2448; Pub. L. 111–212, title III, §3005, July 29, 2010, 124 Stat. 2339, known as the Chesapeake Bay Initiative Act of 1998, authorized Secretary of the Interior, in cooperation with Administrator of the Environmental Protection Agency, to create a Chesapeake Bay Gateways and Watertrails Network and to provide assistance to State and local governments in establishing this network, and authorized appropriations for these purposes.

### **Charleston, Arkansas, National Commemorative Site**

Pub. L. 105–277, div. A, §101(e) [title I, §128], Oct. 21, 1998, 112 Stat. 2681–231, 2681–262, provided that:

(a) The Congress finds that—

(1) the 1954 U.S. Supreme Court decision of *Brown v. Board of Education*, which mandated an end to the segregation of public schools, was one of the most significant Court decisions in the history of the United States;

(2) the Charleston Public School District in Charleston, Arkansas, in September, 1954, became the first previously-segregated public school district in the former Confederacy to integrate following the *Brown* decision;

(3) the orderly and peaceful integration of the public schools in Charleston served as a model and inspiration in the development of the Civil Rights movement in the United States, particularly with respect to public education; and

(4) notwithstanding the important role of the Charleston School District in the successful implementation of integrated public schools, the role of the district has not been adequately commemorated and interpreted for the benefit and understanding of the nation.

(b) The Charleston Public School complex in Charleston, Arkansas is hereby designated as the ‘Charleston National Commemorative Site’ in commemoration of the Charleston schools’ role as the first public school district in the South to integrate following the 1954 United States Supreme Court decision, *Brown v. Board of Education*.

(c) The Secretary, after consultation with the Charleston Public School District, shall establish an appropriate commemorative monument and interpretive exhibit at the



Charleston National Commemorative Site to commemorate the 1954 integration of Charleston's public schools.

### **Vancouver National Historic Reserve**

Pub. L. 104–333, div. I, title V, §502, Nov. 12, 1996, 110 Stat. 4154, as amended by Pub. L. 106–176, title I, §107, Mar. 10, 2000, 114 Stat. 26; Pub. L. 107–342, §1, Dec. 17, 2002, 116 Stat. 2891, established Vancouver National Historic Reserve, Washington, directed that Reserve be administered through general management plan submitted by National Park Service to Secretary of the Interior within 3 years after Nov. 12, 1996, developed by partnership of interests including National Park Service, Historic Preservation Office of State of Washington, Department of the Army, and City of Vancouver, Washington, and to include specific findings of Vancouver Historic Reserve Report and to meet with approval of Secretary of the Interior and Secretary of the Army, directed that plan not be deemed new unit of National Park System and not limit authority of Federal Aviation Administration, and authorized appropriations.

### **Great Falls Historic District, New Jersey**

Pub. L. 104–333, div. I, title V, §510, Nov. 12, 1996, 110 Stat. 4158, as amended by Pub. L. 106–176, title I, §110, Mar. 10, 2000, 114 Stat. 26, established Great Falls Historic District in Paterson, New Jersey, and included statement of purposes, definitions, development plan, and provisions relating to cooperative agreements and applications for restoration, preservation and interpretation of properties, and authorization of appropriations.

### **Aleutian World War II National Historic Area**

Pub. L. 104–333, div. I, title V, §513, Nov. 12, 1996, 110 Stat. 4165, as amended by Pub. L. 106–176, title I, §113, Mar. 10, 2000, 114 Stat. 27, cited as “Aleutian World War II National Historic Areas Act of 1996”, designated and preserved Aleutian World War II National Historic Area within lands owned by Ounalaska Corporation on Island of Amaknak, Alaska, set boundaries of Historic Area, set terms, conditions, and limitations, and authorized Secretary of the Interior to award grants and provide technical assistance to Ounalaska Corporation and City of Unalaska.

### **Maine Acadian Culture Preservation Act**

Pub. L. 101–543, Nov. 8, 1990, 104 Stat. 2389, established Maine Acadian Culture Preservation Commission, prescribed duties of Commission, required Secretary of the Interior within 1 year to prepare and transmit to Congress a comprehensive study of Acadian culture in Maine, authorized cooperative agreements and establishment of Acadian Culture Center, and authorized appropriations.

### **Southwestern Pennsylvania Heritage Preservation Commission**

Pub. L. 100–698, §1, title I, §§101–105, Nov. 19, 1988, 102 Stat. 4618, as amended by Pub. L. 104–333, div. I, title VIII, §814(d)(1)(L), Nov. 12, 1996, 110 Stat. 4196; Pub. L. 106–291, title I, §148, Oct. 11, 2000, 114 Stat. 956, provided for the establishment and staffing of the Southwestern Pennsylvania Heritage Preservation Commission and set forth its powers and functions as a means for recognizing, preserving, promoting, and interpreting the cultural heritage of the 9-county region in southwestern Pennsylvania associated with the three basic industries of iron and steel, coal, and transportation.

### **Historic Resources of Camden, South Carolina**

Pub. L. 97–184, May 24, 1982, 96 Stat. 99, provided: “That (a) in order to assist in the preservation of the nationally significant historic resources associated with the town of Camden, South Carolina, a key location in the development of South Carolina and in military operations in the South during the American Revolution, the Secretary of the Interior is authorized, in accordance with subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666) [section 462(e) of this title], to enter into a cooperative agreement or agreements with the Camden Historical Commission, the Camden District Heritage Foundation, or other appropriate public, governmental, or private nonprofit entities pursuant to which the Secretary may assist in the protection, restoration, and interpretation of such resources for the benefit of the public.

(b) Beginning October 1, 1982, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [this note], but not to exceed \$250,000.

### **Ebey's Landing National Historical Reserve**

Pub. L. 95–625, title V, §508, Nov. 10, 1978, 92 Stat. 3507, as amended Pub. L. 96–87, title IV, §401(k), Oct. 12, 1979, 93 Stat. 666, provided:

(a) [Establishment, area of reserve] There is hereby established the Ebey's Landing National Historical Reserve (hereinafter referred to as the ‘reserve’), in order to preserve and protect a rural community which provides an unbroken historical record from nineteenth century exploration and settlement in Puget Sound to the present time, and to commemorate—

(1) the first thorough exploration of the Puget Sound area, by Captain George Vancouver, in 1792;

(2) settlement by Colonel Isaac Neff Ebey who led the first permanent settlers to Whidbey Island, quickly became an important figure in Washington Territory, and

ultimately was killed by Haidahs from the Queen Charlotte Islands during a period of Indian unrest in 1857;

(3) early active settlement during the years of the Donation Land Law (1850–1855) [Sept. 27, 1850, ch. 76, 9 Stat. 496, Feb. 14, 1853, ch. 69, 10 Stat. 158, July 17, 1854, ch. 84, 10 Stat. 305] and thereafter; and

(4) the growth since 1883 of the historic town of Coupeville.

The reserve shall include the area of approximately eight thousand acres identified as the Central Whidbey Island Historic District.

(b) [Comprehensive plan; transmittal to Congress] (1) To achieve the purpose of this section, the Secretary, in cooperation with the appropriate State and local units of general government, shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

(A) public use and development;

(B) historic and natural preservation; and

(C) private use subject to appropriate local zoning ordinances designed to protect the historical rural setting.

(2) Within eighteen months following the date of enactment of this section [Nov. 10, 1978], the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives.

(c) [Cooperative agreement; land use controls; transfer of management and administration; assistance; grants, limitation of amount] At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted such zoning ordinances or other land use controls which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary may, pursuant to cooperative agreement—

(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;

(2) provide technical assistance to such State or unit of local government in the management, protection, and interpretation of the reserve; and

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the reserve except that no such grant may exceed 50 per centum of the estimated annual cost, as determined by the Secretary, of such operation and maintenance.

(d) [Acquisition of property; administration by Secretary] The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this section by donation, purchase with donated or appropriated funds, or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the historic district to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

Lands and interests therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of the Act of August 25, 1916 (39 Stat. 535) [sections 1, 2, 3, and 4 of this title], as amended and supplemented, and in a manner consistent with the purpose of this section.

(e) [Management inconsistencies; notification; modifications; withdrawal; management by Secretary] If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this section, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a ninety-day period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such ninety-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this section.

(f) [Authorization of appropriations] There is hereby authorized to be appropriated not to exceed \$5,000,000 to carry out the provisions of this section.

### **Saint Paul's Church, Eastchester**

Pub. L. 95-625, title V, §504, Nov. 10, 1978, 92 Stat. 3498, provided:

(a) [Acquisition of property] In order to preserve and protect Saint Paul's Church, Eastchester, in Mount Vernon, New York, for the benefit of present and future generations, the Secretary may accept any gift or bequest of any property or structure

which comprises such church and any other real or personal property located within the square bounded by South Columbus Avenue, South Third Avenue, Edison Avenue, and South Fulton Avenue, in Mount Vernon, New York, including the cemetery located within such square and any real property located within such square which was at any time a part of the old village green, now in Mount Vernon, New York.

(b) [Administration; repairs; cooperative agreements; management protection, development and interpretation] Any property acquired under subsection (a) shall be administered by the Secretary acting through the National Park Service, in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act approved August 25, 1916 (16 U.S.C. 1 and following) [sections 1, 2, 3, and 4 of this title] and the Act approved August 21, 1935 [sections 461 to 467 of this title]. The Secretary, in carrying out the provisions of such Acts (i) shall give particular attention to assuring the completion of such structural and other repairs as he considers necessary to restore and preserve any property acquired in accordance with this section, and (ii) may enter into cooperative agreements with other public or private entities for the management, protection, development, and interpretation, in whole or in part, of the property so acquired.

### **Lowell Historic Canal District, Lowell, Massachusetts**

Pub. L. 93-645, Jan. 4, 1975, 88 Stat. 2330, provided that:

§1. [Lowell Historic Canal District Commission; establishment purpose] For the purpose of preserving and interpreting for the educational and inspirational benefit of present and future generations the unique and significant contribution to our national heritage of certain historic and cultural lands, waterways, and edifices in the city of Lowell, Massachusetts (the cradle of the industrial revolution in America as well as America's first planned industrial city) with emphasis on harnessing this unique urban environment for its educational value as well as for recreation, there is hereby established the Lowell Historic Canal District Commission (hereinafter referred to as the 'Commission'), the purpose of which shall be to prepare a plan for the preservation, interpretation, development, and use, by public and private entities, of the historic, cultural, and architectural resources of the Lowell Historic Canal District in the city of Lowell, Massachusetts.

§2. [Membership; alternate members; compensation] (a) The Commission shall consist of nine members, as follows:

(1) the Secretary of the Interior, the Secretary of Housing and Urban Development, the Secretary of Transportation, and the Secretary of Commerce, all ex officio; and

(2) five members appointed by the Secretary of the Interior, one of whom shall be the Director of the National Park Service, two of whom shall be appointed from

recommendations submitted by the manager of the city of Lowell, and two of whom shall be appointed from recommendations submitted by the Governor of the Commonwealth of Massachusetts. The members appointed pursuant to this paragraph shall have knowledge and experience in one or more of the fields of history, architecture, the arts, recreation planning, city planning, or government.

(b) Each member of the Commission specified in paragraph (1) of subsection (a) and the Director of the National Park Service may designate an alternate official to serve in his stead. Members appointed pursuant to paragraph (2) of subsection (a) who are officers or employees of the Federal Government, the city of Lowell, or the Commonwealth of Massachusetts, shall serve without compensation as such. Other members, when engaged in activities of the Commission, shall be entitled to compensation at the rate of not to exceed \$100 per diem. All members of the Commission shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Commission.

§3. [Personnel; financial and administrative services] (a) The Commission shall elect a Chairman from among its members. Financial and administrative services (including those relating to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided for the Commission by the General Services Administration, for which payments shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator, General Services Administration: Provided, That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Secretary for the administrative control of funds shall apply to appropriations of the Commission: And provided further, That the Commission shall not be required to prescribe such regulations.

(b) The Commission shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and the Classification Act of 1949 [see sections 5101 et seq. and 5331 et seq. of Title 5, Government Organization and Employees].

(c) The Commission may also procure, without regard to the civil service laws and the Classification Act of 1949 [see sections 5101 et seq. and 5331 et seq. of Title 5], temporary and intermittent services to the same extent as is authorized for the executive departments by section 15 of the Administrative Expenses Act of 1946 [see section 3109 of Title 5], but at rates not to exceed \$100 per diem for individuals.

(d) The members of the Commission specified in paragraph (1) of section 2(a) shall provide the Commission, on a reimbursable basis, with such facilities and services under their jurisdiction and control as may be needed by the Commission to carry out its

duties, to the extent that such facilities and services are requested by the Commission and are otherwise available for that purpose. To the extent of available appropriations, the Commission may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties. Upon the termination of the Commission all property, personal and real, and unexpended funds shall be transferred to the Department of the Interior.

§4. [Plan for preservation, etc., contents; time] It shall be the duty of the Commission to prepare the plan referred to in the first section of this Act, and to submit the plan together with any recommendations for additional legislation, to the Congress not later than two years from the effective date of this Act. The plan for the Lowell Historic Canal District shall include considerations and recommendations, without limitation, regarding (1) the objectives to be achieved by the establishment, development, and operation of the area; (2) the types of use, both public and private, to be accommodated; (3) criteria for the design and appearance of buildings, facilities, open spaces, and other improvements; (4) a program for the staging of development; (5) the anticipated interpretive, cultural, and recreational programs and uses for the area; (6) the proposed ownership and operation of all structures, facilities, and lands; (7) areas where cooperative agreements may be anticipated; (8) estimates of costs, both public and private, of implementing the plan; and (9) procedures to be used in implementing and insuring continuing conformance to the plan.

§5. [Termination of Commission] The Commission shall be dissolved (1) upon the termination, as determined by its members, of need for its continued existence for the implementation of the plan and the operation or coordination of the entity established by the plan, or (2) upon expiration of a two-year period commencing on the effective date of this Act, whereupon the completed plan has not been submitted to the Congress, whichever occurs first.

§6. [Contemplated authorizations] It is contemplated that the plan to be developed may propose that the Commission may be authorized to—

(1) acquire lands and interests therein within the Lowell Historic Canal District by purchase, lease, donation, or exchange;

(2) hold, maintain, use, develop, or operate buildings, facilities, and any other properties;

(3) sell, lease, or otherwise dispose of real or personal property as necessary to carry out the plan;

(4) enter into and perform such contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, the Commonwealth of Massachusetts, and any governmental unit within its boundaries, or any person, firm, association, or corporation as may be necessary;

(5) establish (through covenants, regulations, agreements, or otherwise) such restrictions, standards, and requirements as are necessary to assure development, maintenance, use, and protection of the Lowell Historic Canal District in accordance with the plan; and

(6) borrow money from the Treasury of the United States in such amounts as may be authorized in appropriation Acts on the basis of obligations issued by the Commission in accordance with terms and conditions approved by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any such obligations of the Commission.

§7. [Title to property] Title to property of the Commission shall be in the name of the Commission, but it shall not be subject to any Federal, State, or municipal taxes.

§8. [Authorization of appropriations] There are authorized to be appropriated not to exceed \$150,000 for the preparation of the plan authorized by this Act.”

**Proc. No. 3339. Establishment of Key Largo Coral Reef Preserve**

Proc. No. 3339, Mar. 15, 1960, 25 F.R. 2352, provided:

WHEREAS there is situated seaward from the coast of Key Largo, Florida, an undersea coral reef formation which is part of the only living coral reef formation along the coast of North America; and

WHEREAS this unique coral formation and its associated marine life are of great scientific interest and value to students of the sea; and

WHEREAS this coral reef is considered to be one of the most beautiful formations of its kind in the world; and

WHEREAS the reef is being subjected to commercial exploitation and is in danger of destruction; and

WHEREAS it is in the public interest to preserve this formation of great scientific and esthetic importance for the benefit and enjoyment of the people; and

WHEREAS a portion of this reef lies inside the three-mile limit in the area relinquished to the State of Florida by the United States through the Submerged Lands Act, approved May 22, 1953 (67 Stat. 29; 43 U.S.C. 1301 et seq.), and the remainder lies on the sea bed of the outer Continental Shelf outside the seaward boundary of the State of Florida and appertains to the United States, as declared by the Outer Continental Shelf Lands Act, approved August 7, 1953 (67 Stat. 462; 43 U.S.C. 1331 et seq.); and



WHEREAS the United States and the State of Florida are desirous of cooperating for the purpose of preserving the scenic and scientific values of this area unimpaired for the benefit of future generations; and

WHEREAS by the terms of the Outer Continental Shelf Lands Act the United States has jurisdiction over the lands of the outer Continental Shelf and has the exclusive right to dispose of the natural resources of the sea bed and subsoil thereof; and

WHEREAS section 12(a) of the Outer Continental Shelf Lands Act [subsec. (a) of section 1341 of Title 43, Public Lands] authorizes the President to withdraw from disposition any of the unleased lands of the outer Continental Shelf; and

WHEREAS section 5 of the Outer Continental Shelf Lands Act [section 1334 of Title 43] authorizes the Secretary of the Interior to prescribe rules and regulations for the conservation of the natural resources of the outer Continental Shelf and to cooperate with the conservation agencies of adjacent States in the enforcement of conservation laws, rules, and regulations:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and the statutes of the United States, particularly section 12(a) of the Outer Continental Shelf Lands Act [subsec. (a) of section 1341 of Title 43], do proclaim that, subject to valid existing rights, the following-described area is designated as the Key Largo Coral Reef Preserve, and so much thereof as lies on the outer Continental Shelf is withdrawn from disposition:

That portion of the outer Continental Shelf situated seaward of a line three geographic miles from Key Largo, Monroe County, Florida, lying and being within the following described area:

Beginning at a point on the 60-foot depth curve (10-fathom line) as delineated on Coast and Geodetic Survey Chart 1249 (approximate Latitude 25°17'36" N., Longitude 80°10'00" W.), 200 yards southeast of Flashing White Light—Whistle Buoy "2"; thence northwesterly approximately 7,000 yards through Whistle Buoy "2" to Can Buoy "21" (approximate Latitude 25°20'06" N., Longitude 80°12'36" W.) southeast of Old Rhodes Key; thence southwesterly about 6,900 yards to Can Buoy "25"; thence southwesterly approximately 5,500 yards to Can Buoy "27"; thence southwesterly approximately 5,000 yards to Flashing Green Light "31BH" in Hawk Channel southeast of Point Elizabeth; thence southwesterly approximately 10,650 yards to Black Day Beacon "33" in Hawk Channel east of Point Willie; thence southwesterly approximately 9,800 yards to Flashing White Light "35" on Mosquito Bank east of Point Charles; thence southwesterly approximately 5,400 yards to Black Day Beacon "37" (approximate Latitude 25°02'25" N., Longitude 80°25'36" W.), southeast of Rodriguez Key; thence southeasterly approximately 7,100 yards (pass 600 yards southwest of Flashing Light

“2” at Molasses Reef) to the 60-foot depth curve (10-fathom line) 800 yards due south of said light at Molasses Reef (approximate Latitude 25°00'18" N., Longitude 80°22'30" W.); thence northeasterly with the 60-foot depth curve and 10-fathom line (passing easterly of French Reef, Dixie Shoal, The Elbow, and Carysfort Reef) approximately 21 miles to the point of beginning.

I call upon all persons to join in the effort to protect and preserve this natural wonder for the benefit of future generations.

The Secretary of the Interior is requested to prescribe rules and regulations governing the protection and conservation of the coral and other mineral resources in this area and to cooperate with the State of Florida and its conservation agencies in the preservation of the reef.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this fifteenth day of March in the year of our Lord nineteen hundred and sixty, and of the Independence of the United States of America the one hundred and eighty-fourth.

[seal]

Dwight D. Eisenhower.

#### **§462. Administration by Secretary of the Interior; powers and duties enumerated**

The Secretary of the Interior (hereinafter in sections 461 to 467 of this title referred to as the Secretary), through the National Park Service, for the purpose of effectuating the policy expressed in section 461 of this title, shall have the following powers and perform the following duties and functions:

- (a) Secure, collate, and preserve drawings, plans, photographs, and other data of historic and archaeologic sites, buildings, and objects.
- (b) Make a survey of historic and archaeologic sites, buildings, and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States.
- (c) Make necessary investigations and researches in the United States relating to particular sites, buildings, or objects to obtain true and accurate historical and archaeological facts and information concerning the same.

(d) For the purpose of sections 461 to 467 of this title, acquire in the name of the United States by gift, purchase, or otherwise any property, personal or real, or any interest or estate therein, title to any real property to be satisfactory to the Secretary: Provided, That no such property which is owned by any religious or educational institution, or which is owned or administered for the benefit of the public shall be so acquired without the consent of the owner: Provided further, That no such property shall be acquired or contract or agreement for the acquisition thereof made which will obligate the general fund of the Treasury for the payment of such property, unless or until Congress has appropriated money which is available for that purpose.

(e) Contract and make cooperative agreements with States, municipal subdivisions, corporations, associations, or individuals, with proper bond where deemed advisable, to protect, preserve, maintain, or operate any historic or archaeological building, site, object, or property used in connection therewith for public use, regardless as to whether the title thereto is in the United States: Provided, That no contract or cooperative agreement shall be made or entered into which will obligate the general fund of the Treasury unless or until Congress has appropriated money for such purpose.

(f) Restore, reconstruct, rehabilitate, preserve, and maintain historic or prehistoric sites, buildings, objects, and properties of national historical or archaeological significance and where deemed desirable establish and maintain museums in connection therewith.

(g) Erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archaeological significance.

(h) Operate and manage historic and archaeological sites, buildings, and properties acquired under the provisions of sections 461 to 467 of this title together with lands and subordinate buildings for the benefit of the public, such authority to include the power to charge reasonable visitation fees and grant concessions, leases, or permits for the use of land, building space, roads, or trails when necessary or desirable either to accommodate the public or to facilitate administration: Provided, That the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids.

(i) When the Secretary determines that it would be administratively burdensome to restore, reconstruct, operate, or maintain any particular historic or archaeological site, building, or property donated to the United States through the National Park Service, he may cause the same to be done by organizing a corporation for that purpose under the laws of the District of Columbia or any State.

(j) Develop an educational program and service for the purpose of making available to the public facts and information pertaining to American historic and archaeological sites,

buildings, and properties of national significance. Reasonable charges may be made for the dissemination of any such facts or information.

(k) Perform any and all acts, and make such rules and regulations not inconsistent with sections 461 to 467 of this title as may be necessary and proper to carry out the provisions thereof. Any person violating any of the rules and regulations authorized by said sections shall be punished by a fine of not more than \$500 and be adjudged to pay all cost of the proceedings.

(Aug. 21, 1935, ch. 593, §2, 49 Stat. 666; Pub. L. 89–249, §8, Oct. 9, 1965, 79 Stat. 971.)

### **Amendments**

**1965**—Subsec. (h). Pub. L. 89–249 changed proviso to allow granting concessions, leases, and permits and entering into contracts with responsible persons, firms, or corporations without advertising and without securing competitive bids.

### **Transfer of Functions**

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

### **Financial Assistance for Maintenance and Protection of Folger Library and Corcoran Gallery of Art; Limitation on Contract Authority**

Pub. L. 96–344, §1, Sept. 8, 1980, 94 Stat. 1133, provided: “That (a) in furtherance of the purposes of subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666) [subsec. (e) of this section], the Secretary of the Interior may provide financial assistance for the maintenance and protection of the Folger Library and the Corcoran Gallery of Art.

“(b) Authority to enter into contracts or cooperative agreements, to incur obligations, or to make payments under this Act [Pub. L. 96–344, Sept. 8, 1980, 94 Stat. 1133] shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.”

### **§463. National Park System Advisory Board**

#### **(a) Establishment; composition; duties**

There is hereby established a National Park System Advisory Board, whose purpose shall be to advise the Director of the National Park Service on matters relating to the

National Park Service, the National Park System, and programs administered by the National Park Service. The Board shall advise the Director on matters submitted to the Board by the Director as well as any other issues identified by the Board. Members of the Board shall be appointed on a staggered term basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Board shall be comprised of no more than 12 persons, appointed from among citizens of the United States having a demonstrated commitment to the mission of the National Park Service. Board members shall be selected to represent various geographic regions, including each of the administrative regions of the National Park Service. At least 6 of the members shall have outstanding expertise in 1 or more of the following fields: history, archeology, anthropology, historical or landscape architecture, biology, ecology, geology, marine science, or social science. At least 4 of the members shall have outstanding expertise and prior experience in the management of national or State parks or protected areas, or national or cultural resources management. The remaining members shall have outstanding expertise in 1 or more of the areas described above or in another professional or scientific discipline, such as financial management, recreation use management, land use planning or business management, important to the mission of the National Park Service. At least 1 individual shall be a locally elected official from an area adjacent to a park. The Board shall hold its first meeting by no later than 60 days after the date on which all members of the Advisory Board who are to be appointed have been appointed. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. The Board may adopt such rules as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel. All members of the Board shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board while away from home or their regular place of business, in accordance with subchapter 1<sup>1</sup> of chapter 57 of title 5. With the exception of travel and per diem as noted above, a member of the Board who is otherwise an officer or employee of the United States Government shall serve on the Board without additional compensation. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of sections 461 to 467 of this title, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument. Such board shall also provide recommendations on the designation of national historic landmarks and national natural landmarks. Such board is strongly encouraged to consult with the major scholarly and professional organizations in the appropriate disciplines in making such recommendations.

**(b) Staff; applicability of Federal law**

(1) The Secretary is authorized to hire 2 full-time staffers to meet the needs of the Advisory Board.

(2) Service of an individual as a member of the Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Board, or as an employee of the Board, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5 or comparable provisions of Federal law.

**(c) Authority of Board**

(1) Upon request of the Director, the Board is authorized to—

(A) hold such hearings and sit and act at such times,

(B) take such testimony,

(C) have such printing and binding done,

(D) enter into such contracts and other arrangements.<sup>2</sup>

(E) make such expenditures, and

(F) take such other actions, as the Board may deem advisable. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

(2) The Board may establish committees or subcommittees. Any such subcommittees or committees shall be chaired by a voting member of the Board.

**(d) Federal Advisory Committee Act**

The provisions of the Federal Advisory Committee Act shall apply to the Board established under this section with the exception of section 14(b).

**(e) Cooperation of Federal agencies; use of mails**

(1) The Board is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Board may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Board, upon request made by a member of the Board.

(2) Upon the request of the Board, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality to<sup>3</sup> the Board, on a nonreimbursable basis, to assist the Board in carrying out its duties under this section.

(3) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies in the United States.

**(f) Termination**

The National Park System Advisory Board shall continue to exist until January 1, 2010. The provisions of section 14(b) of the Federal Advisory Committee Act (the Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the Board, but in all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.

**(g) National Park Service Advisory Council**

There is hereby established the National Park Service Advisory Council (hereafter in this section referred to as the “advisory council”) which shall provide advice and counsel to the National Park System Advisory Board. Membership on the advisory council shall be limited to those individuals whose term on the advisory board has expired. Such individuals may serve as long as they remain active except that not more than 12 members may serve on the advisory council at any one time. Members of the advisory council shall not have a vote on the National Park System Advisory Board. Members of the advisory council shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. Initially, the Secretary shall choose 12 former members of the Advisory Board to constitute the advisory council. In so doing, the Secretary shall consider their professional expertise and demonstrated commitment to the National Park System and to the Advisory Board.

(Aug. 21, 1935, ch. 593, §3, 49 Stat. 667; Pub. L. 91–383, §9, Aug. 18, 1970, as added Pub. L. 94–458, §2, Oct. 7, 1976, 90 Stat. 1940; amended Pub. L. 95–625, title VI, §604(2), Nov. 10, 1978, 92 Stat. 3518; Pub. L. 101–628, title XII, §§1211, 1212, Nov. 28, 1990, 104 Stat. 4507; Pub. L. 104–333, div. I, title VIII, §814(f)(1), Nov. 12, 1996, 110 Stat. 4197; Pub. L. 109–156, §5, Dec. 30, 2005, 119 Stat. 2948; Pub. L. 110–161, div. F, title I, Dec. 26, 2007, 121 Stat. 2107; Pub. L. 111–8, div. E, title I, Mar. 11, 2009, 123 Stat. 710.)

**References in Text**

The Federal Advisory Committee Act, referred to in subsecs. (d) and (f), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

## Amendments

**2009**—Subsec. (f). Pub. L. 111–8 substituted “2010” for “2009”.

**2007**—Subsec. (f). Pub. L. 110–161 substituted “2009” for “2007”.

**2005**—Subsec. (f). Pub. L. 109–156 substituted “2007” for “2006”.

**1996**—Subsec. (a). Pub. L. 104–333, §814(f)(1)(A), substituted provisions relating to establishment of Board, its purpose, advisory duties, members’ terms, composition, first meeting, vacancies, rules, and members’ compensation for “A general advisory board to be known as the National Park System Advisory Board is hereby established, to be composed of not to exceed sixteen persons, citizens of the United States who have a demonstrated commitment to the National Park System, to include but not be limited to representatives competent in the fields of history, archaeology, architecture, anthropology, biology, geology, and related disciplines, who shall be appointed by the Secretary for a term not to exceed four years. The Secretary shall take into consideration nominations for appointees from public and private, professional, civic, and educational societies, associations, and institutions. The members of such board shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members.”

Subsecs. (b) to (e). Pub. L. 104–333, §814(f)(1)(C), added subsecs. (b) to (e). Former subsecs. (b) and (c) redesignated (f) and (g), respectively.

Subsec. (f). Pub. L. 104–333, §814(f)(1)(B), redesignated former subsec. (b) as (f) and substituted “2006” for “1995”.

Subsec. (g). Pub. L. 104–333, §814(f)(1)(B), redesignated former subsec. (c) as (g).

**1990**—Subsec. (a). Pub. L. 101–628, §1211(1), (2), substituted “sixteen” for “twelve”, “United States who have a demonstrated commitment to the National Park System,” for “United States,” and “anthropology, biology, geology, and related disciplines,” for “and natural science,” and inserted at end “Such board shall also provide recommendations on the designation of national historic landmarks and national natural landmarks. Such board is strongly encouraged to consult with the major scholarly and professional organizations in the appropriate disciplines in making such recommendations.”

Subsec. (b). Pub. L. 101–628, §1211(3), (4), substituted “1995” for “1990” and “The provisions of section 14(b) of the Federal Advisory Committee Act (the Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the Board, but in” for “In”.

Subsec. (c). Pub. L. 101–628, §1212, added subsec. (c).



**1978**—Subsec. (a). Pub. L. 95–625 increased Board membership to twelve from eleven.

**1976**—Pub. L. 91–383, §9, as added by Pub. L. 94–458, renamed the Advisory Board on National Parks, Historic Sites, Buildings and Monuments as the National Park System Advisory Board, substituted natural science for human geography as a field from which member selection may be made, limited appointment term to four years rather than at pleasure of Secretary, eliminated duty of Board to make recommendations concerning use of surplus property as an historic monument, provided for continuation of Board until Jan. 1, 1990, and made it subject to the provisions of the Federal Advisory Committee Act.

### **Effective Date of 2005 Amendment**

Pub. L. 109–156, §5, Dec. 30, 2005, 119 Stat. 2948, provided that the amendment made by section 5 is effective Jan. 1, 2006.

### **Effective Date of 1996 Amendment**

Section 814(f)(3) of title VIII of div. I of Pub. L. 104–333 provided that: “This subsection [amending this section and enacting provisions set out as a note below] shall take effect on December 7, 1997.”

### **Authorization of Appropriations**

Section 814(f)(2) of title VIII of div. I of Pub. L. 104–333 provided that: “There are authorized to be appropriated to the National Park System Advisory Board \$200,000 per year to carry out the provisions of section 3 of the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463).”

### **New York City National Shrines Advisory Board**

Act Aug. 11, 1955, ch. 779, §§1, 2, 69 Stat. 632, as amended by Pub. L. 85–658, Aug. 14, 1958, 72 Stat. 613, provided for the appointment of an advisory board, to be known as the New York City National Shrines Advisory Board, to render advice to the Secretary of the Interior and to further public participation in the rehabilitation, development and the preservation of those historic properties in the New York City area that are of great national significance, identified as the Federal Hall National Memorial, Castle Clinton National Monument, and the Statue of Liberty National Monument, to conduct a study of these historic properties, and to submit recommendations concerning their preservation and administration to the Secretary of the Interior, such report and recommendations of the Board to be transmitted to the Congress by the Secretary of the Interior, together with his recommendations thereon, within one year following the date of the establishment of the Board, and with the Board to cease to exist when the Secretary of the Interior found that its purposes had been accomplished. The Secretary of

the Interior was authorized to accept donations of funds for rehabilitation, development and preservation of the historic properties including any made upon condition that such funds are to be expended only if Federal funds in an amount equal to the donated funds are appropriated for such purposes.

### **Federal Hall National Memorial**

Act Aug. 11, 1955, ch. 779, §3, 69 Stat. 633, provided that the Federal Hall Memorial National Historic Site, established pursuant to the Historic Sites Act of August 21, 1935 (49 Stat. 666) [sections 461 to 467 of this title], should thereafter be known as the “Federal Hall National Memorial”.

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

<sup>2</sup> So in original. The period probably should be a comma.

<sup>3</sup> So in original. Probably should be “available to”.

### **§464. Cooperation with governmental and private agencies**

#### **(a) <sup>1</sup> Authorization**

The Secretary, in administering sections 461 to 467 of this title, is authorized to cooperate with and may seek and accept the assistance of any Federal, State, or municipal department or agency, or any educational or scientific institution, or any patriotic association, or any individual.

#### **(b) Advisory committees**

When deemed necessary, technical advisory committees may be established to act in an advisory capacity in connection with the restoration or reconstruction of any historic or prehistoric building or structure.

#### **(c) Employment of assistance**

Such professional and technical assistance may be employed, and such service may be established as may be required to accomplish the purposes of sections 461 to 467 of this title and for which money may be appropriated by Congress or made available by gifts for such purpose.

(Aug. 21, 1935, ch. 593, §4, 49 Stat. 668.)

### **Codification**

In subsec. (c), provisions that authorized employment of professional and technical assistance “without regard to the civil-service laws” were omitted as such employment is subject to the civil service laws unless specifically excepted by such laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, §1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees.

### **Termination of Advisory Committees**

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

<sup>1</sup> Subsection designation “(a)” supplied.

### **§465. Jurisdiction of States in acquired lands**

Nothing in sections 461 to 467 of this title shall be held to deprive any State, or political subdivision thereof, of its civil and criminal jurisdiction in and over lands acquired by the United States under said sections.

(Aug. 21, 1935, ch. 593, §5, 49 Stat. 668.)

### **§466. Requirement for specific authorization**

#### **(a) In general**

Except as provided in subsection (b) of this section, notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Secretary of the Interior to carry out section 462(e) or 462(f) of this title may be obligated or expended after October 30, 1992—

(1) unless the appropriation of such funds has been specifically authorized by law enacted on or after October 30, 1992; or

(2) in excess of the amount prescribed by law enacted on or after October 30, 1992.

#### **(b) Savings provision**

Nothing in this section shall prohibit or limit the expenditure or obligation of any funds appropriated prior to January 1, 1993.

**(c) Authorization of appropriations**

Except as provided by subsection (a) of this section, there is authorized to be appropriated for carrying out the purposes of sections 461 to 467 of this title such sums as the Congress may from time to time determine.

(Aug. 21, 1935, ch. 593, §6, 49 Stat. 668; Pub. L. 102–575, title XL, §4023, Oct. 30, 1992, 106 Stat. 4768.)

**Codification**

October 30, 1992, referred to in subsec. (a), was in the original “the date of enactment of this section” and “such date”, which were translated as meaning the date of enactment of Pub. L. 102–575 which amended this section generally, to reflect the probable intent of Congress.

**Amendments**

**1992**—Pub. L. 102–575 amended section generally. Prior to amendment, section read as follows: “There is authorized to be appropriated for carrying out the purposes of sections 461 to 467 of this title such sums as the Congress may from time to time determine.”

**§467. Conflict of laws**

The provisions of sections 461 to 467 of this title shall control if any of them are in conflict with any other Act or Acts relating to the same subject matter.

(Aug. 21, 1935, ch. 593, §7, 49 Stat. 668.)

**§467a. Repealed. Pub. L. 96–586, §4(a)(1), (b), Dec. 23, 1980, 94 Stat. 3386**

Section, Pub. L. 92–527, §1, Oct. 21, 1972, 86 Stat. 1049, authorized the Secretary of the Interior to accept, maintain, develop, and administer the Mar-A-Lago National Historic Site described in the order of designation dated Jan. 16, 1969, as part of the national park system and directed the Secretary to enter into agreements and take such action as deemed necessary to provide for administration and use of the Mar-A-Lago National Historic Site as a temporary residence for visiting foreign dignitaries or heads of state or members of the executive branch of the United States Government, with any further use determined by the Secretary after conferring with the Mar-A-Lago National Historic Site Advisory Commission.

### **Effective Date of Repeal**

For effective date of repeal, see Pub. L. 96–586, §4, Dec. 23, 1980, 94 Stat. 3386, set out as a note below.

### **Repeals, Redesignations, Conveyances, Etc., Involving Mar-A-Lago National Historic Site**

Pub. L. 96–586, §4, Dec. 23, 1980, 94 Stat. 3386, provided that:

(a)(1) Effective upon the conveyance or transfer authorized in subsection b, the Act of October 21, 1972, entitled ‘An Act to provide for the administration of the Mar-A-Lago National Historic Site, in Palm Beach, Florida’ [sections 467a and 467a–1 of this title] is repealed.

(2) The order of designation of the Mar-A-Lago National Historic Site, dated January 16, 1969, is repealed and the site described therein is hereby designated as the Mar-A-Lago National Historic Landmark.

(b) The Secretary of the Interior shall, within one hundred and twenty days of the date of enactment of this Act [Dec. 23, 1980], take such measures, consistent with the terms and conditions of the deed of conveyance from Marjorie M. Post to the United States of America, dated December 18, 1972, as may be necessary to transfer the property described in the order of designation of the Mar-A-Lago National Historic Site to the Majorie [sic] Merriweather Post Foundation of the District of Columbia (a charitable foundation organized under the District of Columbia Nonprofit Corporation Act).

(c) The Secretary is authorized upon conveyance, to make appropriate adjustments in the funds available for the administration and management of the property, including but not limited to, return of unobligated donated funds to the trustees of the Marjorie Merriweather Post Foundation of the District of Columbia, and reprogram existing appropriations to related functions and activities of the National Park Service.

### **§467a–1. Repealed. Pub. L. 96–586, §4(a)(1), (b), Dec. 23, 1980, 94 Stat. 3386**

Section, Pub. L. 92–527, §2, Oct. 21, 1972, 86 Stat. 1049, established the Mar-A-Lago National Historic Site Advisory Commission and provided for its membership, term of office, designation of a Chairman, filling of vacancies, compensation and expenses, consultations on general policies and specific matters related to administration of the site, and voting.

### **Effective Date of Repeal**

For effective date of repeal, see Pub. L. 96–586, §4, Dec. 23, 1980, 94 Stat. 3386, set out as a note under section 467a of this title.

**§467b. Survey by Secretary of the Interior of sites for commemoration of former Presidents of the United States**

**(a) Authority to conduct survey**

The Secretary of the Interior (hereinafter referred to as the “Secretary”) is authorized to conduct a survey of sites which he deems exhibit qualities most appropriate for the commemoration of each former President of the United States. The survey may include sites associated with the deeds, leadership, or lifework of a former President, and it may identify sites or structures historically unrelated to a former President but which may be suitable as a memorial to honor such President.

**(b) Preparation and transmittal to Congressional committees of reports on individual sites and structures**

The Secretary shall, from time to time, prepare and transmit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate reports on individual sites and structures identified in the survey referred to in subsection (a) of this section, together with his recommendation as to whether such site or structure is suitable for establishment as a national historic site or national memorial to commemorate a former President. Each such report shall include pertinent information with respect to the need for acquisition of lands and interests therein, the development of facilities, and the operation and maintenance of the site or structure and the estimated cost thereof. If during the six-month period following the transmittal of a report pursuant to this subsection neither Committee has by vote of a majority of its members disapproved a recommendation of the Secretary that a site or structure is suitable for establishment as a national historic site, the Secretary may thereafter by appropriate order establish the same as a national historic site, including the lands and interests therein identified in the report accompanying his recommendation. The Secretary may acquire the lands and interests therein by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, and he shall administer the site in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented, and sections 461 to 467 of this title, as amended.

**(c) Prohibited statutory constructions**

Nothing in this section shall be construed as diminishing the authority of the Secretary under sections 461 to 467 of this title or as authorizing the Secretary to establish any national memorial, creation of which is hereby expressly reserved to the Congress.

**(d) Authorization of appropriations**

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(Pub. L. 96–199, title I, §120, Mar. 5, 1980, 94 Stat. 73; Pub. L. 103–437, §6(d)(26), Nov. 2, 1994, 108 Stat. 4584.)

**Amendments**

**1994**—Subsec. (b). Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

**§468. National Trust for Historic Preservation in the United States; creation; purpose**

In order to further the policy enunciated in sections 461 to 467 of this title, and to facilitate public participation in the preservation of sites, buildings, and objects of national significance or interest, there is created a charitable, educational, and nonprofit corporation, to be known as the National Trust for Historic Preservation in the United States, hereafter referred to as the “National Trust”. The purposes of the National Trust shall be to receive donations of sites, buildings, and objects significant in American history and culture, to preserve and administer them for public benefit, to accept, hold, and administer gifts of money, securities, or other property of whatsoever character for the purpose of carrying out the preservation program, and to execute such other functions as are vested in it by sections 468 to 468d of this title.

(Oct. 26, 1949, ch. 755, §1, 63 Stat. 927.)

**Reservation of Rights**

Section 7 of act Oct. 26, 1949, provided that: “The right to repeal, alter or amend this Act [sections 468 to 468d of this title] at any time is hereby expressly reserved, but no contract or individual right made or acquired shall thereby be divested or impaired.”

**§468a. Principal office of National Trust Commission**

The National Trust shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be an inhabitant and resident thereof. The National Trust may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(Oct. 26, 1949, ch. 755, §2, 63 Stat. 927.)

**§468b. Administration of National Trust; composition of board of trustees; terms of office; compensation; expenses**

The affairs of the National Trust shall be under the general direction of a board of trustees composed as follows: The Attorney General of the United States; the Secretary of the Interior; and the Director of the National Gallery of Art, ex officio; and not less than six general trustees who shall be citizens of the United States, to be chosen as hereinafter provided. The Attorney General, and the Secretary of the Interior, when it appears desirable in the interest of the conduct of the business of the board and to such extent as they deem it advisable, may, by written notice to the National Trust, designate any officer of their respective departments to act for them in the discharge of their duties as a member of the board of trustees. The number of general trustees shall be fixed by the Board of Trustees of the National Trust and shall be chosen by the members of the National Trust from its members at any regular meeting of said National Trust. The respective terms of office of the general trustees shall be as prescribed by said board of trustees but in no case shall exceed a period of five years from the date of election. A successor to a general trustee shall be chosen in the same manner and shall have a term expiring five years from the date of the expiration of the term for which his predecessor was chosen, except that a successor chosen to fill a vacancy occurring prior to the expiration of such term shall be chosen only for the remainder of that term. The chairman of the board of trustees shall be elected by a majority vote of the members of the board. No compensation shall be paid to the members of the board of trustees for their services as such members, but they shall be reimbursed for travel and actual expenses necessarily incurred by them in attending board meetings and performing other official duties on behalf of the National Trust at the direction of the board.

(Oct. 26, 1949, ch. 755, §3, 63 Stat. 928; July 28, 1953, ch. 255, 67 Stat. 228.)

**Amendments**

**1953**—Act July 28, 1953, provided that the general trustees be elected by members of the trust rather than by the National Council for Historic Sites and Buildings.

**§468c. Powers and duties of National Trust**

To the extent necessary to enable it to carry out the functions vested in it by sections 468 to 468d of this title, the National Trust shall have the following general powers:

(a) To have succession until dissolved by Act of Congress, in which event title to the properties of the National Trust, both real and personal, shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the National Trust, pass to and become vested in the United States of America.



- (b) To sue and be sued in its corporate name.
- (c) To adopt, alter, and use a corporate seal which shall be judicially noticed.
- (d) To adopt a constitution and to make such bylaws, rules, and regulations, not inconsistent with the laws of the United States or of any State, as it deems necessary for the administration of its functions under sections 468 to 468d of this title, including among other matter, bylaws, rules, and regulations governing visitation to historic properties, administration of corporate funds, and the organization and procedure of the board of trustees.
- (e) To accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or on trust, for the purposes for which the National Trust is created. Unless otherwise restricted by the terms of the gift or bequest, the National Trust is authorized to sell, exchange, or otherwise dispose of and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property given or bequeathed to it. The principal of such corporate funds, together with the income therefrom and all other revenues received by it from any source whatsoever, shall be placed in such depositories as the National Trust shall determine and shall be subject to expenditure by the National Trust for its corporate purposes.
- (f) To acquire by gift, devise, purchase, or otherwise, absolutely or on trust, and to hold and, unless otherwise restricted by the terms of the gift or devise, to encumber, convey, or otherwise dispose of, any real property, or any estate or interest therein (except property within the exterior boundaries of national parks and national monuments), as may be necessary and proper in carrying into effect the purposes of the National Trust.
- (g) To contract and make cooperative agreements with Federal, State, or municipal departments or agencies, corporations, associations, or individuals, under such terms and conditions as it deems advisable, respecting the protection, preservation, maintenance, or operation of any historic site, building, object, or property used in connection therewith for public use, regardless of whether the National Trust has acquired title to such properties, or any interest therein.
- (h) To enter into contracts generally and to execute all instruments necessary or appropriate to carry out its corporate purposes, which instruments shall include such concession contracts, leases, or permits for the use of lands, buildings, or other property deemed desirable either to accommodate the public or to facilitate administration.
- (i) To appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the National Trust may determine.

(j) And generally to do any and all lawful acts necessary or appropriate to carry out the purposes for which the National Trust is created.

(Oct. 26, 1949, ch. 755, §4, 63 Stat. 928.)

**§468d. Consultation with Advisory Board on National Parks, Historic Sites, Buildings, and Monuments**

In carrying out its functions under sections 468 to 468d of this title, the National Trust is authorized to consult with the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments, on matters relating to the selection of sites, buildings, and objects to be preserved and protected pursuant hereto.

(Oct. 26, 1949, ch. 755, §5, 63 Stat. 929.)

**§468e. Repealed. Pub. L. 86–533, §1(19), June 29, 1960, 74 Stat. 248**

Section, act Oct. 26, 1949, ch. 755, §6, 63 Stat. 929, required the National Trust to report to the Congress its proceedings and activities.

**§469. Preservation of historical and archeological data threatened by dam construction or alterations of terrain**

It is the purpose of sections 469 to 469c–1 of this title to further the policy set forth in sections 461 to 467 of this title, by specifically providing for the preservation of historical and archeological data (including relics and specimens) which might otherwise be irreparably lost or destroyed as the result of (1) flooding, the building of access roads, the erection of workmen's communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency of the United States, or by any private person or corporation holding a license issued by any such agency or (2) any alteration of the terrain caused as a result of any Federal construction project or federally licensed activity or program.

(Pub. L. 86–523, §1, June 27, 1960, 74 Stat. 220; Pub. L. 93–291, §1(1), May 24, 1974, 88 Stat. 174.)

**Amendments**

**1974**—Pub. L. 93–291 designated existing provisions as cl. (1) and added cl. (2).

**§469a. Notice of dam construction to be given Secretary of the Interior by United States agencies**

Before any agency of the United States shall undertake the construction of a dam, or issue a license to any private individual or corporation for the construction of a dam, it shall give written notice to the Secretary of the Interior (hereafter referred to as the Secretary) setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if such construction is undertaken: Provided, That with respect to any flood water retarding dam which provides less than five thousand acre-feet of detention capacity and with respect to any other type of dam which creates a reservoir of less than forty surface acres the provisions of this section shall apply only when the constructing agency, in its preliminary surveys, finds, or is presented with evidence that historical or archeological materials exist or may be present in the proposed reservoir area.

(Pub. L. 86-523, §2, formerly §2(a), June 27, 1960, 74 Stat. 220, renumbered and amended Pub. L. 93-291, §1(2), (5), May 24, 1974, 88 Stat. 174, 175.)

### **Amendments**

**1974**—Pub. L. 93-291 struck out designation “(a)” before and, in the resulting unlettered provisions, inserted “(hereafter referred to as the Secretary)” after “Secretary of the Interior”. Subsecs. (b) to (e) were disposed of as follows: subsec. (b) was transferred and amended, and as so transferred and amended, is set out as sections 469a-1 and 469a-2 of this title, subsecs. (c) and (e) were redesignated as subsecs. (a) and (b), respectively, of section 469a-3 of this title, and subsec. (d) was struck out.

### **Transfer of Functions**

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under sections 469 to 469c of this title and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with sections 469 to 469c of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

**§469a-1. Threat of irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data by Federal construction projects; notice to Secretary of the Interior; survey; recovery, preservation, and protection of data**

**(a) Notification and request for preservation of data**

Whenever any Federal agency finds, or is notified, in writing, by an appropriate historical or archeological authority, that its activities in connection with any Federal construction project or federally licensed project, activity, or program may cause irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, such agency shall notify the Secretary, in writing, and shall provide the Secretary with appropriate information concerning the project, program, or activity. Such agency may request the Secretary to undertake the recovery, protection, and preservation of such data (including preliminary survey, or other investigation as needed, and analysis and publication of the reports resulting from such investigation), or it may, with funds appropriated for such project, program, or activity, undertake such activities. Copies of reports of any investigations made pursuant to this section shall be submitted to the Secretary, who shall make them available to the public for inspection and review.

**(b) Survey of site; preservation of data; compensation**

Whenever any Federal agency provides financial assistance by loan, grant, or otherwise to any private person, association, or public entity, the Secretary, if he determines that significant scientific, prehistorical, historical, or archeological data might be irrevocably lost or destroyed, may with funds appropriated expressly for this purpose conduct, with the consent of all persons, associations, or public entities having a legal interest in the property involved, a survey of the affected site and undertake the recovery, protection, and preservation of such data (including analysis and publication). The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or any nonfederally owned lands.

(Pub. L. 86-523, §3, as added Pub. L. 93-291, §1(3), May 24, 1974, 88 Stat. 174.)

**Prior Provisions**

A prior section 3 of Pub. L. 86-523 was renumbered section 6 and is classified to section 469b of this title.

**Transfer of Functions**

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior and Secretary or other official in Department of Agriculture to Federal

Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 469a of this title.

**§469a–2. Survey by Secretary of the Interior; recovery and preservation of data; compensation for delays in construction and for temporary loss of use of land**

**(a) Survey conducted; preservation of data**

The Secretary, upon notification, in writing, by any Federal or State agency or appropriate historical or archeological authority that scientific, prehistorical, historical, or archeological data is being or may be irrevocably lost or destroyed by any Federal or federally assisted or licensed project, activity, or program, shall, if he determines that such data is significant and is being or may be irrevocably lost or destroyed and after reasonable notice to the agency responsible for funding or licensing such project, activity, or program, conduct or cause to be conducted a survey and other investigation of the areas which are or may be affected and recover and preserve such data (including analysis and publication) which, in his opinion, are not being, but should be, recovered and preserved in the public interest.

**(b) Emergency projects**

No survey or recovery work shall be required pursuant to this section which, in the determination of the head of the responsible agency, would impede Federal or federally assisted or licensed projects or activities undertaken in connection with any emergency, including projects or activities undertaken in anticipation of, or as a result of, a natural disaster.

**(c) Initiation of survey**

The Secretary shall initiate the survey or recovery effort within sixty days after notification to him pursuant to subsection (a) of this section or within such time as may be agreed upon with the head of the agency responsible for funding or licensing the project, activity, or program in all other cases.

**(d) Compensation by Secretary**

The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or nonfederally owned land.

(Pub. L. 86–523, §4, as added Pub. L. 93–291, §1(3), May 24, 1974, 88 Stat. 174.)

**Prior Provisions**

A prior section 4 of Pub. L. 86–523 was renumbered section 7 and is classified to section 469c of this title.

### **Transfer of Functions**

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior and Secretary or other official in Department of Agriculture to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 469a of this title.

### **§469a–3. Progress reports by Secretary of the Interior on surveys and work undertaken as result of surveys; disposition of relics and specimens recovered; coordination of survey and recovery activities; annual report**

#### **(a) Progress reports to funding or licensing agency**

The Secretary shall keep the agency responsible for funding or licensing the project notified at all times of the progress of any survey made under sections 469 to 469c of this title or of any work undertaken as a result of such survey, in order that there will be as little disruption or delay as possible in the carrying out of the functions of such agency and the survey and recovery programs shall terminate at a time mutually agreed upon by the Secretary and the head of such agency unless extended by mutual agreement.

#### **(b) Disposition of relics and specimens**

The Secretary shall consult with any interested Federal and State agencies, educational and scientific organizations, and private institutions and qualified individuals, with a view to determining the ownership of and the most appropriate repository for any relics and specimens recovered as a result of any work performed as provided for in this section.

#### **(c) Coordination of activities; annual report**

The Secretary shall coordinate all Federal survey and recovery activities authorized under sections 469 to 469c–1 of this title.

(Pub. L. 86–523, §5, formerly §2(c), (e), June 27, 1960, 74 Stat. 220, renumbered and amended Pub. L. 93–291, §1(4), (6), (7), May 24, 1974, 88 Stat. 175; Pub. L. 96–205, title VI, §608(b)(1), Mar. 12, 1980, 94 Stat. 92; Pub. L. 103–437, §6(d)(27), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104–333, div. I, title VIII, §814(d)(2)(B), Nov. 12, 1996, 110 Stat. 4196.)

## Amendments

**1996**—Subsec. (c). Pub. L. 104–333 inserted period after “469c–1 of this title” and struck out at end “and shall submit an annual report at the end of each fiscal year to the Committee on Natural Resources of the House of Representatives and Committee on Energy and Natural Resources of the Senate indicating the scope and effectiveness of the program, the specific projects surveyed and the results produced, and the costs incurred by the Federal Government as a result thereof.”

**1994**—Subsec. (c). Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

**1980**—Subsec. (c). Pub. L. 96–205 substituted references to the House Committee on Interior and Insular Affairs and Senate Committee on Energy and Natural Resources, for reference to Interior and Insular Affairs Committees of the Congress.

**1974**—Subsec. (a). Pub. L. 93–291, §1(4), (6), redesignated subsec. (c) of section 469a of this title as subsec. (a) of this section and substituted “agency responsible for funding or licensing the project” for “instigating agency” and “agency and the survey and recovery programs shall terminate at a time mutually agreed upon by the Secretary and the head of such agency unless extended by mutual agreement” for “agency”.

Subsec. (b). Pub. L. 93–291, §1(6), redesignated subsec. (e) of section 469a of this title as subsec. (b) of this section.

Subsec. (c). Pub. L. 93–291, §1(7), added subsec. (c).

## Transfer of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior and Secretary or other official in Department of Agriculture to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 469a of this title.

### **§469b. Administration; contracts or agreements; services of experts, consultants, or organizations; acceptance of funds**

In the administration of sections 469 to 469c–1 of this title, the Secretary may—

(1) enter into contracts or make cooperative agreements with any Federal or State agency, any educational or scientific organization, or any institution, corporation, association, or qualified individual; and

(2) obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5; and

(3) accept and utilize funds made available for salvage archeological purposes by any private person or corporation or transferred to him by any Federal agency.

(Pub. L. 86–523, §6, formerly §3, June 27, 1960, 74 Stat. 221, renumbered and amended Pub. L. 93–291, §1(8), May 24, 1974, 88 Stat. 175.)

### **Amendments**

**1974**—Par. (2). Pub. L. 93–291 substituted “obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5” for “procure the temporary or intermittent services of experts or consultants or organizations thereof as provided in section 55a of title 5”.

Par. (3). Pub. L. 93–291 substituted “or corporation or transferred to him by any Federal agency” for “or corporations holding a license issued by an agency of the United States for the construction of a dam or other type of water or power control project”.

### **Transfer of Functions**

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior and Secretary or other official in Department of Agriculture to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 469a of this title.

### **§469c. Assistance to Secretary of the Interior by Federal agencies responsible for construction projects; authorization of appropriations**

#### **(a) Assistance of Federal agencies**

To carry out the purposes of sections 469 to 469c–1 of this title, any Federal agency responsible for a construction project may assist the Secretary and/or it may transfer to him such funds as may be agreed upon, but not more than 1 per centum of the total amount authorized to be appropriated for such project, except that the 1 per centum limitation of this section shall not apply in the event that the project involves \$50,000 or less: Provided, That the costs of such survey, recovery, analysis, and publication shall be considered nonreimbursable project costs.

#### **(b) Authorization of appropriations for preservation of data**



For the purposes of section 469a-1(b) of this title, there are authorized to be appropriated such sums as may be necessary, but not more than \$500,000 in fiscal year 1974; \$1,000,000 in fiscal year 1975; \$1,500,000 in fiscal year 1976; \$1,500,000 in fiscal year 1977; \$1,500,000 in fiscal year 1978; \$500,000 in fiscal year 1979; \$1,000,000 in fiscal year 1980; \$1,500,000 in fiscal year 1981; \$1,500,000 in fiscal year 1982; and \$1,500,000 in fiscal year 1983.

**(c) Authorization of appropriations for surveys and investigations**

For the purposes of section 469a-2(a) of this title, there are authorized to be appropriated not more than \$2,000,000 in fiscal year 1974; \$2,000,000 in fiscal year 1975; \$3,000,000 in fiscal year 1976; \$3,000,000 in fiscal year 1977; \$3,000,000 in fiscal year 1978; \$3,000,000 in fiscal year 1979; \$3,000,000 in fiscal year 1980; \$3,500,000 in fiscal year 1981; \$3,500,000 in fiscal year 1982; and \$4,000,000 in fiscal year 1983.

**(d) Availability of appropriations**

Beginning fiscal year 1979, sums appropriated for purposes of this section shall remain available until expended.

(Pub. L. 86-523, §7, formerly §4, June 27, 1960, 74 Stat. 221, renumbered and amended Pub. L. 93-291, §1(9), May 24, 1974, 88 Stat. 175; Pub. L. 95-625, title VI, §603, Nov. 10, 1978, 92 Stat. 3518.)

**Amendments**

**1978**—Subsec. (b). Pub. L. 95-625, §603(a), (b), authorized appropriation of \$500,000 for fiscal year 1979, \$1,000,000 for fiscal year 1980, and \$1,500,000 for fiscal years 1981 through 1983.

Subsec. (c). Pub. L. 95-625, §603(a), (c), authorized appropriation of \$3,000,000 for fiscal years 1979, and 1980, \$3,500,000 for fiscal years 1981, and 1982, and \$4,000,000 for fiscal year 1983.

Subsec. (d). Pub. L. 95-625, §603(a), (d), added subsec. (d).

**1974**—Subsec. (a). Pub. L. 93-291 added subsec. (a).

Subsecs. (b), (c). Pub. L. 93-291 designated existing unlettered provisions as subsecs. (b) and (c), and in subsecs. (b) and (c) as so designated substituted provisions making separate authorizations of appropriations for purposes of sections 469a-1(b) and 469a-2(a) of this title and covering fiscal years 1974, 1975, 1976, 1977, and 1978 for provisions making a general authorization of appropriations of whatever sums as might be necessary to carry out the purposes of sections 469 to 469c of this title.

### **Transfer of Functions**

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior and Secretary or other official in Department of Agriculture to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 469a of this title.

### **§469c–1. “State” defined**

As used in sections 469 to 469c–1 of this title, the term “State” includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 86–523, §8, as added Pub. L. 96–205, title VI, §608(b)(2), Mar. 12, 1980, 94 Stat. 92.)

### **Termination of Trust Territory of the Pacific Islands**

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### **§469c–2. Costs for identification, surveys, evaluation and data recovery with respect to historic properties**

Notwithstanding section 469c(a) of this title, or any other provision of law to the contrary—

(1) identification, surveys, and evaluation carried out with respect to historic properties within project areas may be treated for purposes of any law or rule of law as planning costs of the project and not as costs of mitigation;

(2) reasonable costs for identification, surveys, evaluation, and data recovery carried out with respect to historic properties within project areas may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit; and

(3) Federal agencies, with the concurrence of the Secretary and after notification of the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, are authorized to waive, in appropriate cases, the 1 per centum limitation contained in section 469c(a) of this title.

(Pub. L. 96–515, title II, §208, Dec. 12, 1980, 94 Stat. 2997; Pub. L. 103–437, §6(d)(28), Nov. 2, 1994, 108 Stat. 4584.)

### **Amendments**

**1994**—Par. (3). Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

### **§469d. Ice Age National Scientific Reserve; statement of purpose**

It is the purpose of sections 469d to 469i of this title to assure protection, preservation, and interpretation of the nationally significant values of Wisconsin continental glaciation, including moraines, eskers, kames, kettleholes, drumlins, swamps, lakes, and other reminders of the ice age.

(Pub. L. 88–655, §1, Oct. 13, 1964, 78 Stat. 1087.)

### **§469e. Plan for continental glaciation**

#### **(a) Federal funds**

To implement the purpose of sections 469d to 469i of this title, the Secretary of the Interior (hereinafter called the “Secretary”), in cooperation with State and local governmental authorities of Wisconsin, may formulate within two years after October 13, 1964, a comprehensive plan for the protection, preservation, and interpretation of outstanding examples of continental glaciation in Wisconsin; but he shall not spend more than \$50,000 of Federal funds thereon.

#### **(b) Copies to Congress; establishment; boundaries**

When the comprehensive plan is completed and the Secretary is satisfied that State legislation exists for the preservation of the nationally significant features of the reserve, open to the people of the entire Nation, he shall transmit copies thereof to the President of the Senate and the Speaker of the House of Representatives and may, ninety days thereafter and after consulting with the Governor of the State of Wisconsin, publish notice in the Federal Register of the establishment of the Ice Age National Scientific Reserve and of the boundaries thereof, which boundaries shall comprise lands owned or to be acquired by the State and local governments of Wisconsin in the following areas:

- (1) Eastern area (portions of the northern unit of the Kettle Moraine State Forest and Campbellsport drumlin area);
- (2) Central area (portions of Devil's Lake State Park);

(3) Northwestern area (portions of Chippewa County);

(4) Related areas (other areas in the State of Wisconsin which the Secretary and the Governor of Wisconsin agree upon as significant examples of continental glaciation).

**(c) Inclusion and exclusion of other areas**

Any area outside of the national forests that the Secretary and the Governor of Wisconsin agree has significant examples of continental glaciation but is not described in the original notice may be included in the reserve by the Secretary after notice to the President of the Senate and the Speaker of the House of Representatives and publication in the Federal Register, as hereinbefore provided, and any area that they consider to be no longer desirable as a part of the reserve may be excluded from it by the Secretary in the same manner.

(Pub. L. 88–655, §2, Oct. 13, 1964, 78 Stat. 1087.)

**§469f. Repealed. Pub. L. 91–483, §1(1), Oct. 21, 1970, 84 Stat. 1083**

Section, Pub. L. 88–655, §3, Oct. 13, 1964, 78 Stat. 1087, provided for grant of financial assistance to State of Wisconsin of up to \$750,000 for acquisition of lands and interests in lands, subject to terms and conditions prescribed by Secretary.

**§469g. Ice Age National Scientific Reserve; recommendations for Federal and State participation in financing public facilities and services**

The comprehensive plan presented by the Secretary to the President of the Senate and the Speaker of the House of Representatives may include such recommendations, if any, as he and the Governor of the State of Wisconsin may wish to make with respect to Federal and State participation in the financing of appropriate interpretive and other public facilities and services within the reserve including facilities and services to be furnished by such private organizations as the Ice Age Park and Trail Foundation, a nonprofit corporation.

(Pub. L. 88–655, §4, Oct. 13, 1964, 78 Stat. 1087; Pub. L. 91–483, §1(2), Oct. 21, 1970, 84 Stat. 1083.)

**Amendments**

**1970**—Pub. L. 91–483 removed restriction that the Secretary make no commitment with respect to financing of facilities and services within the reserve and that no Federal appropriations be available for such purpose.

**§469h. Comprehensive plan for Reserve Development**

**(a) Technical assistance**

The Secretary is authorized to provide technical assistance to the State of Wisconsin for planning and development of the reserve in accordance with the comprehensive plan.

**(b) Additional grants**

In addition to grants made pursuant to the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 4601–4 et seq.], the Secretary is authorized to make grants of not to exceed 25 per centum of the actual cost of each development project within the reserve in accordance with the comprehensive plan: Provided, That the maximum amount of such grants for all projects shall not exceed \$2,500,000.

**(c) Costs of maintenance**

The Secretary, pursuant to an agreement with the State of Wisconsin, may pay up to 50 per centum of the annual cost of management, protection, maintenance, and rehabilitation of the reserve.

**(d) Termination of Federal contributions**

Whenever the Secretary determines that appropriate management and protection set down in the comprehensive plan are not being afforded the nationally significant values within the reserve or that funds are not being provided on the prescribed matching basis by the State of Wisconsin or other non-Federal sources, he may terminate contributions under sections 469d to 469i of this title.

(Pub. L. 88–655, §5, Oct. 13, 1964, 78 Stat. 1088; Pub. L. 91–483, §1(3), Oct. 21, 1970, 84 Stat. 1083; Pub. L. 96–199, title I, §109, Mar. 5, 1980, 94 Stat. 69.)

**References in Text**

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (b), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§4601–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601–4 of this title and Tables.

**Amendments**

**1980**—Subsec. (b). Pub. L. 96–199 substituted “\$2,500,000” for “\$425,000”.

**1970**—Pub. L. 91–483 substituted provisions authorizing the Secretary to provide technical assistance and financial grants in addition to those under the Land and Water

Conservation Fund Act of 1965, not exceeding 25 percent of the actual cost of each development project and up to a maximum of \$425,000 and to share equally the annual costs of management, protection, maintenance and rehabilitation of the reserve for provisions for part recovery of the funds granted in case of conversion, and use or disposal contrary to the purposes of the establishment of the Ice Age National Scientific Reserve, and reenacted provisions for the termination of the grants.

**§469i. Repealed. Pub. L. 91–483, §1(4), Oct. 21, 1970, 84 Stat. 1083**

Section, Pub. L. 88–655, §6, Oct. 13, 1964, 78 Stat. 1088, authorized appropriations of up to \$800,000 for carrying out provisions of sections 469d to 469i of this title.

**§469j. Commission for the Preservation of America's Heritage Abroad**

**(a) Purpose**

Because the fabric of a society is strengthened by visible reminders of the historical roots of the society, it is in the national interest of the United States to encourage the preservation and protection of the cemeteries, monuments, and historic buildings associated with the foreign heritage of United States citizens.

**(b) Establishment**

There is established a commission to be known as the Commission for the Preservation of America's Heritage Abroad (hereafter in this section referred to as the “Commission”).

**(c) Duties**

The Commission shall—

- (1) identify and publish a list of those cemeteries, monuments, and historic buildings located abroad which are associated with the foreign heritage of United States citizens from eastern and central Europe, particularly those cemeteries, monuments, and buildings which are in danger of deterioration or destruction;
- (2) encourage the preservation and protection of such cemeteries, monuments, and historic buildings by obtaining, in cooperation with the Department of State, assurances from foreign governments that the cemeteries, monuments, and buildings will be preserved and protected; and
- (3) prepare and disseminate reports on the condition of and the progress toward preserving and protecting such cemeteries, monuments, and historic buildings.

**(d) Membership**

(1) The Commission shall consist of 21 members appointed by the President, 7 of whom shall be appointed after consultation with the Speaker of the House of Representatives and 7 of whom shall be appointed after consultation with the President pro tempore of the Senate.

(2)(A) Except as provided in subparagraphs (B) and (C), members of the Commission shall be appointed for terms of 3 years.

(B) Of the members first appointed after consultation with the Speaker of the House of Representatives, 5 shall be appointed for a term of 2 years. Of the members first appointed after consultation with the President pro tempore of the Senate, 5 shall be appointed for 2 years.

(C) A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the member's predecessor was appointed.

(D) A member may retain membership on the Commission until the member's successor has been appointed.

(3) The President shall designate the Chairman of the Commission from among its members.

**(e) Meetings**

The Commission shall meet at least once every six months.

**(f) Compensation and per diem**

(1) Members of the Commission shall receive no pay on account of their service on the Commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

**(g) Authorities**

(1) The Commission or any member it authorizes may, for the purposes of carrying out this section, hold such hearings, sit and act at such times and places, request such

attendance, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may appoint such personnel (subject to the provisions of title 5 which govern appointments in the competitive service) and may fix the pay of such personnel (subject to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates) as the Commission deems desirable.

(3) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS-18 of the General Schedule (5 U.S.C. 5332(a)).

(4) Upon request of the Commission, the head of any Federal department or agency, including the Secretary of State, may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this section.

(5) The Commission may secure directly from any department or agency of the United States, including the Department of State, any information necessary to enable it to carry out this section. Upon the request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(6) The Commission may accept, use, and dispose of gifts or donations of money or property.

(7) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(8) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

#### **(h) Reports**

The Commission shall transmit an annual report to the President and to each House of Congress as soon as practicable after the end of each fiscal year. Each report shall include a detailed statement of the activities and accomplishments of the Commission during the preceding fiscal year and any recommendations by the Commission for legislation and administrative actions.

(Pub. L. 99-83, title XIII, §1303, Aug. 8, 1985, 99 Stat. 280; Pub. L. 105-277, div. A, §101(b) [title VI, §620], Oct. 21, 1998, 112 Stat. 2681-50, 2681-115.)



## References in Text

The General Schedule, referred to in subsec. (g)(2), is set out under section 5332 of Title 5.

## Amendments

**1998**—Subsec. (e). Pub. L. 105–277 substituted “six” for “three”.

## Effective Date

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of Title 22, Foreign Relations and Intercourse.

## Termination of Reporting Requirements

For termination, effective May 15, 2000, of provisions in subsec. (h) of this section relating to transmittal of annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 157 of House Document No. 103–7.

## References in Other Laws to GS–16, 17, or 18 Pay Rates

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

**§469k. Repealed. Pub. L. 104–333, div. I, title VI, §604(e)(1), Nov. 12, 1996, 110 Stat. 4173; Pub. L. 107–359, §3(4)(A), Dec. 17, 2002, 116 Stat. 3016**

Section, Pub. L. 104–333, div. I, title VI, §604, Nov. 12, 1996, 110 Stat. 4173; Pub. L. 107–359, §3, Dec. 17, 2002, 116 Stat. 3016, known as the American Battlefield Protection Act of 1996, established the American Battlefield Protection Program. See section 469k–1 of this title.

## Short Title of 2002 Amendment

Pub. L. 107–359, §1, Dec. 17, 2002, 116 Stat. 3016, provided that: “This Act [amending this section and enacting provisions set out as a note under this section], may be cited as the ‘Civil War Battlefield Preservation Act of 2002’.”

## §469k–1. American Battlefield Protection Program

**(a) Purpose**

The purpose of this section is to assist citizens, public and private institutions, and governments at all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil during the armed conflicts that shaped the growth and development of the United States, in order that present and future generations may learn and gain inspiration from the ground where Americans made their ultimate sacrifice.

**(b) Preservation assistance****(1) In general**

Using the established national historic preservation program to the extent practicable, the Secretary of the Interior, acting through the American Battlefield Protection Program, shall encourage, support, assist, recognize, and work in partnership with citizens, Federal, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations in identifying, researching, evaluating, interpreting, and protecting historic battlefields and associated sites on a National, State, and local level.

**(2) Financial assistance**

To carry out paragraph (1), the Secretary may use a cooperative agreement, grant, contract, or other generally adopted means of providing financial assistance.

**(3) Authorization of appropriations**

There are authorized to be appropriated \$3,000,000 annually to carry out this subsection, to remain available until expended.

**(c) Battlefield acquisition grant program****(1) Definitions**

In this subsection:

**(A) Battlefield Report**

The term “Battlefield Report” means the document entitled “Report on the Nation's Civil War Battlefields”, prepared by the Civil War Sites Advisory Commission, and dated July 1993.

**(B) Eligible entity**

The term “eligible entity” means a State or local government.

**(C) Eligible site**

The term “eligible site” means a site—

- (i) that is not within the exterior boundaries of a unit of the National Park System; and
- (ii) that is identified in the Battlefield Report.

**(D) Secretary**

The term “Secretary” means the Secretary of the Interior, acting through the American Battlefield Protection Program.

**(2) Establishment**

The Secretary shall establish a battlefield acquisition grant program under which the Secretary may provide grants to eligible entities to pay the Federal share of the cost of acquiring interests in eligible sites for the preservation and protection of those eligible sites.

**(3) Nonprofit partners**

An eligible entity may acquire an interest in an eligible site using a grant under this subsection in partnership with a nonprofit organization.

**(4) Non-Federal share**

The non-Federal share of the total cost of acquiring an interest in an eligible site under this subsection shall be not less than 50 percent.

**(5) Limitation on land use**

An interest in an eligible site acquired under this subsection shall be subject to section 4601–8(f)(3) of this title.

**(6) Authorization of appropriations**

There is authorized to be appropriated to the Secretary to provide grants under this subsection \$10,000,000 for each of fiscal years 2009 through 2013.

(Pub. L. 111–11, title VII, §7301, Mar. 30, 2009, 123 Stat. 1213.)

## **§469l. Findings and purposes**

### **(a) Findings**

The Congress finds the following:

(1) The Underground Railroad, which flourished from the end of the 18th century to the end of the Civil War, was one of the most significant expressions of the American civil rights movement during its evolution over more than three centuries.

(2) The Underground Railroad bridged the divides of race, religion, sectional differences, and nationality; spanned State lines and international borders; and joined the American ideals of liberty and freedom expressed in the Declaration of Independence and the Constitution to the extraordinary actions of ordinary men and women working in common purpose to free a people.

(3) Pursuant to title VI of Public Law 101–628 (16 U.S.C. 1a–5 note; 104 Stat. 4495), the Underground Railroad Advisory Committee conducted a study of the appropriate means of establishing an enduring national commemorative Underground Railroad program of education, example, reflection, and reconciliation.

(4) The Underground Railroad Advisory Committee found that—

(A) although a few elements of the Underground Railroad story are represented in existing National Park Service units and other sites, many sites are in imminent danger of being lost or destroyed, and many important resource types are not adequately represented and protected;

(B) there are many important sites which have high potential for preservation and visitor use in 29 States, the District of Columbia, and the Virgin Islands;

(C) no single site or route completely reflects and characterizes the Underground Railroad, since its story and associated resources involve networks and regions of the country rather than individual sites and trails; and

(D) establishment of a variety of partnerships between the Federal Government and other levels of government and the private sector would be most appropriate for the protection and interpretation of the Underground Railroad.

(5) The National Park Service can play a vital role in facilitating the national commemoration of the Underground Railroad.

(6) The story and significance of the Underground Railroad can best engage the American people through a national program of the National Park Service that links

historic buildings, structures, and sites; routes, geographic areas, and corridors; interpretive centers, museums, and institutions; and programs, activities, community projects, exhibits, and multimedia materials, in a manner that is both unified and flexible.

**(b) Purposes**

The purposes of sections 4691 to 4691–2 of this title are the following:

- (1) To recognize the importance of the Underground Railroad, the sacrifices made by those who used the Underground Railroad in search of freedom from tyranny and oppression, and the sacrifices made by the people who helped them.
- (2) To authorize the National Park Service to coordinate and facilitate Federal and non-Federal activities to commemorate, honor, and interpret the history of the Underground Railroad, its significance as a crucial element in the evolution of the national civil rights movement, and its relevance in fostering the spirit of racial harmony and national reconciliation.

(Pub. L. 105–203, §2, July 21, 1998, 112 Stat. 678.)

**§4691–1. National Underground Railroad Network to Freedom program**

**(a) In general**

The Secretary of the Interior (in sections 4691 to 4691–3 of this title referred to as the “Secretary”) shall establish in the National Park Service a program to be known as the “National Underground Railroad Network to Freedom” (in sections 4691 to 4691–3 of this title referred to as the “national network”). Under the program, the Secretary shall—

- (1) produce and disseminate appropriate educational materials, such as handbooks, maps, interpretive guides, or electronic information;
- (2) enter into appropriate cooperative agreements and memoranda of understanding to provide technical assistance under subsection (c) of this section; and
- (3) create and adopt an official, uniform symbol or device for the national network and issue regulations for its use.

**(b) Elements**

The national network shall encompass the following elements:

(1) All units and programs of the National Park Service determined by the Secretary to pertain to the Underground Railroad.

(2) Other Federal, State, local, and privately owned properties pertaining to the Underground Railroad that have a verifiable connection to the Underground Railroad and that are included on, or determined by the Secretary to be eligible for inclusion on, the National Register of Historic Places.

(3) Other governmental and nongovernmental facilities and programs of an educational, research, or interpretive nature that are directly related to the Underground Railroad.

**(c) Cooperative agreements and memoranda of understanding**

To achieve the purposes of sections 4691 to 4691–3 of this title and to ensure effective coordination of the Federal and non-Federal elements of the national network referred to in subsection (b) of this section with National Park Service units and programs, the Secretary may enter into cooperative agreements and memoranda of understanding with, and provide technical assistance to—

(1) the heads of other Federal agencies, States, localities, regional governmental bodies, and private entities; and

(2) in cooperation with the Secretary of State, the governments of Canada, Mexico, and any appropriate country in the Caribbean.

(Pub. L. 105–203, §3, July 21, 1998, 112 Stat. 679; Pub. L. 110–229, title III, §361(a)(1), May 8, 2008, 122 Stat. 801.)

**Amendments**

**2008**—Subsec. (d). Pub. L. 110–229 struck out subsec. (d) which authorized appropriations for sections 4691 to 4691–2 of this title.

**Effective Date of 2008 Amendment**

Pub. L. 110–229, title III, §361(b), May 8, 2008, 122 Stat. 802, provided that: “The amendments made by subsection (a) [enacting section 4691–3 of this title and amending this section and section 4691–2 of this title] shall take effect at the beginning of the fiscal year immediately following the date of the enactment of this Act [May 8, 2008].”

**§4691–2. Preservation of historic sites or structures**

**(a) Authority to make grants**

The Secretary of the Interior may make grants in accordance with this section for the preservation and restoration of historic buildings or structures associated with the Underground Railroad, and for related research and documentation to sites, programs, or facilities that have been included in the national network.

**(b) Grant conditions**

Any grant made under this section shall provide that—

- (1) no change or alteration may be made in property for which the grant is used except with the agreement of the property owner and the Secretary;
- (2) the Secretary shall have the right of access at reasonable times to the public portions of such property for interpretive and other purposes; and
- (3) conversion, use, or disposal of such property for purposes contrary to the purposes of sections 4691 to 4691–3 of this title, as determined by the Secretary, shall result in a right of the United States to compensation equal to all Federal funds made available to the grantee under sections 4691 to 4691–3 of this title.

**(c) Matching requirement**

The Secretary may obligate funds made available for a grant under this section only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal to or greater than the grant. The Secretary may waive the requirement of the preceding sentence with respect to a grant if the Secretary determines that an extreme emergency exists or that such a waiver is in the public interest to assure the preservation of historically significant resources.

(Pub. L. 105–203, §4, as added Pub. L. 106–291, title I, §150(h), Oct. 11, 2000, 114 Stat. 959; amended Pub. L. 110–229, title III, §361(a)(2), May 8, 2008, 122 Stat. 801.)

**Amendments**

**2008**—Subsec. (d). Pub. L. 110–229 struck out subsec. (d) which related to funding for purposes of this section for fiscal year 2001 and each subsequent fiscal year.

**Effective Date of 2008 Amendment**

Amendment by Pub. L. 110–229 effective at the beginning of the fiscal year immediately following May 8, 2008, see section 361(b) of Pub. L. 110–229, set out as a note under section 4691–1 of this title.

**National Underground Railroad Freedom Center**

Pub. L. 106–291, title I, §150(b), Oct. 11, 2000, 114 Stat. 956, provided that:

(1) Findings.—Congress finds that—

(A) the National Underground Railroad Freedom Center (hereinafter ‘Freedom Center’) is a nonprofit organization incorporated under the laws of the State of Ohio in 1995;

(B) the objectives of the Freedom Center are to interpret the history of the Underground Railroad through development of a national cultural institution in Cincinnati, Ohio, that will house an interpretive center, including museum, educational, and research facilities, all dedicated to communicating to the public the importance of the quest for human freedom which provided the foundation for the historic and inspiring story of the Underground Railroad;

(C) the city of Cincinnati has granted exclusive development rights for a prime riverfront location to the Freedom Center;

(D) the Freedom Center will be a national center linked through state-of-the-art technology to Underground Railroad sites and facilities throughout the United States and to a constituency that reaches across the United States, Canada, Mexico, the Caribbean and beyond; and

(E) the Freedom Center has reached an agreement with the National Park Service to pursue a range of historical and educational cooperative activities related to the Underground Railroad, including but not limited to assisting the National Park Service in the implementation of the National Underground Railroad Network to Freedom Act [16 U.S.C. 4691 et seq.].

(2) Purposes.—The purposes of this section are—

(A) to promote preservation and public awareness of the history of the Underground Railroad;

(B) to assist the Freedom Center in the development of its programs and facilities in Cincinnati, Ohio; and

(C) to assist the National Park Service in the implementation of the National Underground Railroad Network to Freedom Act (112 Stat. 679; 16 U.S.C. 4691 and following).

### **§4691–3. Authorization of appropriations**

#### **(a) Amounts**



There are authorized to be appropriated to carry out sections 4691 to 4691–3 of this title \$2,500,000 for each fiscal year, to be allocated as follows:

(1) \$2,000,000 is to be used for the purposes of section 4691–1 of this title.

(2) \$500,000 is to be used for the purposes of section 4691–2 of this title.

**(b) Restrictions**

No amounts may be appropriated for the purposes of sections 4691 to 4691–3 of this title except to the Secretary for carrying out the responsibilities of the Secretary as set forth in sections 4691 to 4691–3 of this title.

(Pub. L. 105–203, §5, as added Pub. L. 110–229, title III, §361(a)(3), May 8, 2008, 122 Stat. 801.)

**Effective Date**

Section effective at the beginning of the fiscal year immediately following May 8, 2008, see section 361(b) of Pub. L. 110–229, set out as an Effective Date of 2008 Amendment note under section 4691–1 of this title.

**§469m. Women's Rights National Historical Park**

**(a) Omitted**

**(b) National Women's Rights History Project National Registry**

**(1) In general**

The Secretary of the Interior (referred to in this section as the “Secretary”) may make annual grants to State historic preservation offices for not more than 5 years to assist the State historic preservation offices in surveying, evaluating, and nominating to the National Register of Historic Places women's rights history properties.

**(2) Eligibility**

In making grants under paragraph (1), the Secretary shall give priority to grants relating to properties associated with the multiple facets of the women's rights movement, such as politics, economics, education, religion, and social and family rights.

**(3) Updates**

The Secretary shall ensure that the National Register travel itinerary website entitled “Places Where Women Made History” is updated to contain—

(A) the results of the inventory conducted under paragraph (1); and

(B) any links to websites related to places on the inventory.

**(4) Cost-sharing requirement**

The Federal share of the cost of any activity carried out using any assistance made available under this subsection shall be 50 percent.

**(5) Authorization of appropriations**

There is authorized to be appropriated to the Secretary to carry out this subsection \$1,000,000 for each of fiscal years 2009 through 2013.

**(c) National Women's Rights History Project Partnerships Network**

**(1) Grants**

The Secretary may make matching grants and give technical assistance for development of a network of governmental and nongovernmental entities (referred to in this subsection as the “network”), the purpose of which is to provide interpretive and educational program development of national women's rights history, including historic preservation.

**(2) Management of network**

**(A) In general**

The Secretary shall, through a competitive process, designate a nongovernmental managing network to manage the network.

**(B) Coordination**

The nongovernmental managing entity designated under subparagraph (A) shall work in partnership with the Director of the National Park Service and State historic preservation offices to coordinate operation of the network.

**(3) Cost-sharing requirement**

**(A) In general**

The Federal share of the cost of any activity carried out using any assistance made available under this subsection shall be 50 percent.

**(B) State historic preservation offices**

Matching grants for historic preservation specific to the network may be made available through State historic preservation offices.

**(4) Authorization of appropriations**

There is authorized to be appropriated to the Secretary to carry out this subsection \$1,000,000 for each of fiscal years 2009 through 2013.

(Pub. L. 111–11, title VII, §7111, Mar. 30, 2009, 123 Stat. 1199.)

**Codification**

Section is comprised of section 7111 of Pub. L. 111–11. Subsec. (a) of section 7111 of Pub. L. 111–11 enacted section 41011–1 of this title.

**§469n. Preserve America Program**

**(a) Purpose**

The purpose of this section is to authorize the Preserve America Program, including—

- (1) the Preserve America grant program within the Department of the Interior;
- (2) the recognition programs administered by the Advisory Council on Historic Preservation; and
- (3) the related efforts of Federal agencies, working in partnership with State, tribal, and local governments and the private sector, to support and promote the preservation of historic resources.

**(b) Definitions**

In this section:

**(1) Council**

The term “Council” means the Advisory Council on Historic Preservation.

**(2) Heritage tourism**

The term “heritage tourism” means the conduct of activities to attract and accommodate visitors to a site or area based on the unique or special aspects of the history, landscape (including trail systems), and culture of the site or area.

**(3) Program**

The term “program” means the Preserve America Program established under subsection (c)(1).

**(4) Secretary**

The term “Secretary” means the Secretary of the Interior.

**(c) Establishment**

**(1) In general**

There is established in the Department of the Interior the Preserve America Program, under which the Secretary, in partnership with the Council, may provide competitive grants to States, local governments (including local governments in the process of applying for designation as Preserve America Communities under subsection (d)), Indian tribes, communities designated as Preserve America Communities under subsection (d), State historic preservation offices, and tribal historic preservation offices to support preservation efforts through heritage tourism, education, and historic preservation planning activities.

**(2) Eligible projects**

**(A) In general**

The following projects shall be eligible for a grant under this section:

(i) A project for the conduct of—

(I) research on, and documentation of, the history of a community; and

(II) surveys of the historic resources of a community.

(ii) An education and interpretation project that conveys the history of a community or site.

(iii) A planning project (other than building rehabilitation) that advances economic development using heritage tourism and historic preservation.

(iv) A training project that provides opportunities for professional development in areas that would aid a community in using and promoting its historic resources.

(v) A project to support heritage tourism in a Preserve America Community designated under subsection (d).

(vi) Other nonconstruction projects that identify or promote historic properties or provide for the education of the public about historic properties that are consistent with the purposes of this section.

**(B) Limitation**

In providing grants under this section, the Secretary shall only provide 1 grant to each eligible project selected for a grant.

**(3) Preference**

In providing grants under this section, the Secretary may give preference to projects that carry out the purposes of both the program and the Save America's Treasures Program.

**(4) Consultation and notification**

**(A) Consultation**

The Secretary shall consult with the Council in preparing the list of projects to be provided grants for a fiscal year under the program.

**(B) Notification**

Not later than 30 days before the date on which the Secretary provides grants for a fiscal year under the program, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Appropriations of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on Appropriations of the House of Representatives a list of any eligible projects that are to be provided grants under the program for the fiscal year.

**(5) Cost-sharing requirement**

**(A) In general**

The non-Federal share of the cost of carrying out a project provided a grant under this section shall be not less than 50 percent of the total cost of the project.

**(B) Form of non-Federal share**

The non-Federal share required under subparagraph (A) shall be in the form of—

- (i) cash; or
- (ii) donated supplies and related services, the value of which shall be determined by the Secretary.

**(C) Requirement**

The Secretary shall ensure that each applicant for a grant has the capacity to secure, and a feasible plan for securing, the non-Federal share for an eligible project required under subparagraph (A) before a grant is provided to the eligible project under the program.

**(d) Designation of Preserve America Communities**

**(1) Application**

To be considered for designation as a Preserve America Community, a community, tribal area, or neighborhood shall submit to the Council an application containing such information as the Council may require.

**(2) Criteria**

To be designated as a Preserve America Community under the program, a community, tribal area, or neighborhood that submits an application under paragraph (1) shall, as determined by the Council, in consultation with the Secretary, meet criteria required by the Council and, in addition, consider—

- (A) protection and celebration of the heritage of the community, tribal area, or neighborhood;
- (B) use of the historic assets of the community, tribal area, or neighborhood for economic development and community revitalization; and
- (C) encouragement of people to experience and appreciate local historic resources through education and heritage tourism programs.

**(3) Local governments previously certified for historic preservation activities**

The Council shall establish an expedited process for Preserve America Community designation for local governments previously certified for historic preservation activities under section 470a(c)(1) of this title.

**(4) Guidelines**

The Council, in consultation with the Secretary, shall establish any guidelines that are necessary to carry out this subsection.

**(e) Regulations**

The Secretary shall develop any guidelines and issue any regulations that the Secretary determines to be necessary to carry out this section.

**(f) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$25,000,000 for each fiscal year, to remain available until expended.

(Pub. L. 111–11, title VII, §7302, Mar. 30, 2009, 123 Stat. 1214.)

**§469o. Save America's Treasures Program**

**(a) Purpose**

The purpose of this section is to authorize within the Department of the Interior the Save America's Treasures Program, to be carried out by the Director of the National Park Service, in partnership with—

- (1) the National Endowment for the Arts;
- (2) the National Endowment for the Humanities;
- (3) the Institute of Museum and Library Services;
- (4) the National Trust for Historic Preservation;
- (5) the National Conference of State Historic Preservation Officers;
- (6) the National Association of Tribal Historic Preservation Officers; and
- (7) the President's Committee on the Arts and the Humanities.

**(b) Definitions**

In this section:

**(1) Collection**

The term “collection” means a collection of intellectual and cultural artifacts, including documents, sculpture, and works of art.

**(2) Eligible entity**

The term “eligible entity” means a Federal entity, State, local, or tribal government, educational institution, or nonprofit organization.

**(3) Historic property**

The term “historic property” has the meaning given the term in section 470w of this title.

**(4) Nationally significant**

The term “nationally significant” means a collection or historic property that meets the applicable criteria for national significance, in accordance with regulations promulgated by the Secretary pursuant to section 470a(a)(2) of this title.

**(5) Program**

The term “program” means the Save America's Treasures Program established under subsection (c)(1).

**(6) Secretary**

The term “Secretary” means the Secretary of the Interior, acting through the Director of the National Park Service.

**(c) Establishment**

**(1) In general**

There is established in the Department of the Interior the Save America's Treasures program, under which the amounts made available to the Secretary under subsection (e) shall be used by the Secretary, in consultation with the organizations described in subsection (a), subject to paragraph (6)(A)(ii), to provide grants to eligible entities for projects to preserve nationally significant collections and historic properties.

**(2) Determination of grants**

Of the amounts made available for grants under subsection (e), not less than 50 percent shall be made available for grants for projects to preserve collections and historic properties, to be distributed through a competitive grant process administered by the Secretary, subject to the eligibility criteria established under paragraph (5).



**(3) Applications for grants**

To be considered for a competitive grant under the program an eligible entity shall submit to the Secretary an application containing such information as the Secretary may require.

**(4) Collections and historic properties eligible for competitive grants****(A) In general**

A collection or historic property shall be provided a competitive grant under the program only if the Secretary determines that the collection or historic property is—

- (i) nationally significant; and
- (ii) threatened or endangered.

**(B) Eligible collections**

A determination by the Secretary regarding the national significance of collections under subparagraph (A)(i) shall be made in consultation with the organizations described in subsection (a), as appropriate.

**(C) Eligible historic properties**

To be eligible for a competitive grant under the program, a historic property shall, as of the date of the grant application—

- (i) be listed in the National Register of Historic Places at the national level of significance; or
- (ii) be designated as a National Historic Landmark.

**(5) Selection criteria for grants****(A) In general**

The Secretary shall not provide a grant under this section to a project for an eligible collection or historic property unless the project—

- (i) eliminates or substantially mitigates the threat of destruction or deterioration of the eligible collection or historic property;
- (ii) has a clear public benefit; and

(iii) is able to be completed on schedule and within the budget described in the grant application.

**(B) Preference**

In providing grants under this section, the Secretary may give preference to projects that carry out the purposes of both the program and the Preserve America Program.

**(C) Limitation**

In providing grants under this section, the Secretary shall only provide 1 grant to each eligible project selected for a grant.

**(6) Consultation and notification by Secretary**

**(A) Consultation**

**(i) In general**

Subject to clause (ii), the Secretary shall consult with the organizations described in subsection (a) in preparing the list of projects to be provided grants for a fiscal year by the Secretary under the program.

**(ii) Limitation**

If an entity described in clause (i) has submitted an application for a grant under the program, the entity shall be recused by the Secretary from the consultation requirements under that clause and paragraph (1).

**(B) Notification**

Not later than 30 days before the date on which the Secretary provides grants for a fiscal year under the program, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Appropriations of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on Appropriations of the House of Representatives a list of any eligible projects that are to be provided grants under the program for the fiscal year.

**(7) Cost-sharing requirement**

**(A) In general**

The non-Federal share of the cost of carrying out a project provided a grant under this section shall be not less than 50 percent of the total cost of the project.

**(B) Form of non-Federal share**

The non-Federal share required under subparagraph (A) shall be in the form of—

(i) cash; or

(ii) donated supplies or related services, the value of which shall be determined by the Secretary.

**(C) Requirement**

The Secretary shall ensure that each applicant for a grant has the capacity and a feasible plan for securing the non-Federal share for an eligible project required under subparagraph (A) before a grant is provided to the eligible project under the program.

**(d) Regulations**

The Secretary shall develop any guidelines and issue any regulations that the Secretary determines to be necessary to carry out this section.

**(e) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$50,000,000 for each fiscal year, to remain available until expended.

(Pub. L. 111–11, title VII, §7303, Mar. 30, 2009, 123 Stat. 1216.)

## **SUBCHAPTER II—NATIONAL HISTORIC PRESERVATION**

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## **SUBCHAPTER II—NATIONAL HISTORIC PRESERVATION**

### **§470. Short title; Congressional finding and declaration of policy**

- (a) This subchapter may be cited as the “National Historic Preservation Act”.
- (b) The Congress finds and declares that—
  - (1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;

(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

(3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;

(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;

(5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;

(6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

(7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

(Pub. L. 89-665, §1, Oct. 15, 1966, 80 Stat. 915; Pub. L. 96-515, title I, §101(a), Dec. 12, 1980, 94 Stat. 2987.)

### **Amendments**

**1980**—Pub. L. 96-515 added subsec. (a), designated existing provision as subsec. (b), and in subsec. (b) as so designated, redesignated pars. (a) to (d) as (1), (2), (5), and (7), respectively, in par. (1) as so redesignated, substituted “heritage” for “past”, and added pars. (3), (4), and (6).

### **Short Title of 2006 Amendment**

Pub. L. 109–453, §1(a), Dec. 22, 2006, 120 Stat. 3367, provided that: “This Act [enacting section 470v–2 of this title and amending sections 470h, 470i, 470m, and 470t of this title] may be cited as the ‘National Historic Preservation Act Amendments Act of 2006’.”

#### **Short Title of 2000 Amendments**

Pub. L. 106–355, §1, Oct. 24, 2000, 114 Stat. 1385, provided that: “This Act [enacting sections 470w–7 and 470w–8 of this title] may be cited as the ‘National Historic Lighthouse Preservation Act of 2000’.”

Pub. L. 106–208, §1, May 26, 2000, 114 Stat. 318, provided that: “This Act [amending sections 470a, 470b, 470c, 470h, 470h–2, 470h–4, 470n, 470t, 470w, 470w–6, and 470x–3 of this title] may be cited as the ‘National Historic Preservation Act Amendments of 2000’.”

#### **Short Title of 1992 Amendment**

Pub. L. 102–575, title XL, §4001, Oct. 30, 1992, 106 Stat. 4753, provided that: “This title [enacting sections 470h–4, 470h–5, and 470x to 470x–6 of this title, amending sections 466, 470–1, 470a, 470b, 470c, 470h, 470h–2, 470h–3, 470i, 470s, 470t, 470w, and 470w–3 of this title, enacting provisions set out as notes under section 470a of this title, and amending provisions set out as a note under section 461 of this title] may be cited as the ‘National Historic Preservation Act Amendments of 1992’.”

#### **Short Title of 1980 Amendment**

Section 1 of Pub. L. 96–515 provided: “That this Act [enacting sections 469c–2, 470–1, 470a–1, 470a–2, 470h–2, 470h–3, 470u, 470v and 470w to 470w–6 of this title, amending this section and sections 470a, 470b, 470c, 470d, 470h to 470j, 470l, 470m, and 470r to 470t of this title, and enacting provisions set out as notes under sections 470a, 470j and 470h of this title and section 874 of former Title 40, Public Buildings, Property, and Works] may be cited as the ‘National Historic Preservation Act Amendments of 1980’.”

#### **Ex. Ord. No. 11593. Protection and Enhancement of the Cultural Environment**

Ex. Ord. No. 11593, May 13, 1971, 36 F.R. 8921, provided:

By virtue of the authority vested in me as President of the United States and in furtherance of the purposes and policies of the National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4321 et seq.), the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470 et seq.), the Historic Sites Act of 1935 (49 Stat. 666,

16 U.S.C. 461 et seq.), and the Antiquities Act of 1906 (34 Stat. 225, 16 U.S.C. 431 et seq.), it is ordered as follows:

Section 1. Policy. The Federal Government shall provide leadership in preserving, restoring and maintaining the historic and cultural environment of the Nation. Agencies of the executive branch of the Government (hereinafter referred to as "Federal agencies") shall (1) administer the cultural properties under their control in a spirit of stewardship and trusteeship for future generations, (2) initiate measures necessary to direct their policies, plans and programs in such a way that federally owned sites, structures, and objects of historical, architectural or archaeological significance are preserved, restored and maintained for the inspiration and benefit of the people, and (3), in consultation with the Advisory Council on Historic Preservation (16 U.S.C. 470i), institute procedures to assure that Federal plans and programs contribute to the preservation and enhancement of non-federally owned sites, structures and objects of historical, architectural or archaeological significance.

Sec. 2. Responsibilities of Federal agencies. Consonant with the provisions of the acts cited in the first paragraph of this order, the heads of Federal agencies shall:

(a) no later than July 1, 1973, with the advice of the Secretary of the Interior, and in cooperation with the liaison officer for historic preservation for the State or territory involved, locate, inventory, and nominate to the Secretary of the Interior all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing on the National Register of Historic Places.

(b) exercise caution during the interim period until inventories and evaluations required by subsection (a) are completed to assure that any federally owned property that might qualify for nomination is not inadvertently transferred, sold, demolished or substantially altered. The agency head shall refer any questionable actions to the Secretary of the Interior for an opinion respecting the property's eligibility for inclusion on the National Register of Historic Places. The Secretary shall consult with the liaison officer for historic preservation for the State or territory involved in arriving at his opinion. Where, after a reasonable period in which to review and evaluate the property, the Secretary determines that the property is likely to meet the criteria prescribed for listing on the National Register of Historic Places, the Federal agency head shall reconsider the proposal in light of national environmental and preservation policy. Where, after such reconsideration, the Federal agency head proposes to transfer, sell, demolish or substantially alter the property he shall not act with respect to the property until the Advisory Council on Historic Preservation shall have been provided an opportunity to comment on the proposal.

(c) initiate measures to assure that where as a result of Federal action or assistance a property listed on the National Register of Historic Places is to be substantially altered or demolished, timely steps be taken to make or have made records, including measured



drawings, photographs and maps, of the property, and that copy of such records then be deposited in the Library of Congress as part of the Historic American Buildings Survey or Historic American Engineering Record for future use and reference. Agencies may call on the Department of the Interior for advice and technical assistance in the completion of the above records.

(d) initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration, of federally owned and registered sites at professional standards prescribed by the Secretary of the Interior.

(e) submit procedures required pursuant to subsection (d) to the Secretary of the Interior and to the Advisory Council on Historic Preservation no later than January 1, 1972, and annually thereafter, for review and comment.

(f) cooperate with purchasers and transferees of a property listed on the National Register of Historic Places in the development of viable plans to use such property in a manner compatible with preservation objectives and which does not result in an unreasonable economic burden to public or private interests.

Sec. 3. Responsibilities of the Secretary of the Interior. The Secretary of the Interior shall:

(a) encourage State and local historic preservation officials to evaluate and survey federally owned historic properties and, where appropriate, to nominate such properties for listing on the National Register of Historic Places.

(b) develop criteria and procedures to be applied by Federal agencies in the reviews and nominations required by section 2(a). Such criteria and procedures shall be developed in consultation with the affected agencies.

(c) expedite action upon nominations to the National Register of Historic Places concerning federally owned properties proposed for sale, transfer, demolition or substantial alteration.

(d) encourage State and Territorial liaison officers for historic preservation to furnish information upon request to Federal agencies regarding their properties which have been evaluated with respect to historic, architectural or archaeological significance and which as a result of such evaluations have not been found suitable for listing on the National Register of Historic Places.

(e) develop and make available to Federal agencies and State and local governments information concerning professional methods and techniques for preserving, improving, restoring and maintaining historic properties.

(f) advise Federal agencies in the evaluation, identification, preservation, improvement, restoration and maintenance of historic properties.

(g) review and evaluate the plans of transferees of surplus Federal properties transferred for historic monument purposes to assure that the historic character of such properties is preserved in rehabilitation, restoration, improvement, maintenance and repair of such properties.

(h) review and comment upon Federal agency procedures submitted pursuant to section 2(e) of this order.

Richard Nixon.

#### **§470-1. Declaration of policy of the Federal Government**

It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to—

(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;

(2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments;

(3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

(4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

(5) encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and

(6) assist State and local governments, Indian tribes and Native Hawaiian organizations and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

(Pub. L. 89–665, §2, as added Pub. L. 96–515, title I, §101(a), Dec. 12, 1980, 94 Stat. 2988; amended Pub. L. 102–575, title XL, §4002, Oct. 30, 1992, 106 Stat. 4753.)

### **Amendments**

**1992**—Par. (2). Pub. L. 102–575, §4002(1), inserted “and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments” after “community of nations”.

Par. (6). Pub. L. 102–575, §4002(2), inserted “, Indian tribes and Native Hawaiian organizations” after “local governments”.

### **Part A—Programs**

#### **§470a. Historic preservation program**

##### **(a) National Register of Historic Places; designation of properties as historic landmarks; properties deemed included; criteria; nomination of properties by States, local governments or individuals; regulations; review of threats to properties**

(1)(A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. Notwithstanding section 1125(c) of title 15, buildings and structures on or eligible for inclusion on the National Register of Historic Places (either individually or as part of a historic district), or designated as an individual landmark or as a contributing building in a historic district by a unit of State or local government, may retain the name historically associated with the building or structure.

(B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as “National Historic Landmarks” and included on the National Register, subject to the requirements of paragraph (6). All historic properties included on the National Register on December 12, 1980, shall be deemed to be included on the National Register as of their initial listing for purposes of this subchapter. All historic properties listed in the Federal Register of February 6, 1979, as “National Historic Landmarks” or thereafter prior to the effective date of this Act are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this subchapter and sections 461 to 467 of this title; except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register.

(2) The Secretary in consultation with national historical and archaeological associations, shall establish or revise criteria for properties to be included on the National Register and criteria for National Historic Landmarks, and shall also promulgate or revise regulations as may be necessary for—

(A) nominating properties for inclusion in, and removal from, the National Register and the recommendation of properties by certified local governments;

(B) designating properties as National Historic Landmarks and removing such designation;

(C) considering appeals from such recommendations, nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

(D) nominating historic properties for inclusion in the World Heritage List in accordance with the terms of the Convention concerning the Protection of the World Cultural and Natural Heritage;

(E) making determinations of eligibility of properties for inclusion on the National Register; and

(F) notifying the owner of a property, any appropriate local governments, and the general public, when the property is being considered for inclusion on the National Register, for designation as a National Historic Landmark or for nomination to the World Heritage List.

(3) Subject to the requirements of paragraph (6), any State which is carrying out a program approved under subsection (b) of this section, shall nominate to the Secretary properties which meet the criteria promulgated under subsection (a) of this section for inclusion on the National Register. Subject to paragraph (6), any property nominated under this paragraph or under section 470h-2(a)(2) of this title shall be included on the National Register on the date forty-five days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within such forty-five day period or unless an appeal is filed under paragraph (5).

(4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if such property is located in a State where there is no program approved under subsection (b) of this section. The Secretary may include on the National Register any property for which such a nomination is made if he determines that such property is eligible in accordance with the regulations promulgated under paragraph (2). Such

determination shall be made within ninety days from the date of the nomination unless the nomination is appealed under paragraph (5).

(5) Any person or local government may appeal to the Secretary a nomination of any historic property for inclusion on the National Register and may appeal to the Secretary the failure or refusal of a nominating authority to nominate a property in accordance with this subsection.

(6) The Secretary shall promulgate regulations requiring that before any property or district may be included on the National Register or designated as a National Historic Landmark, the owner or owners of such property, or a majority of the owners of the properties within the district in the case of an historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property or district for such inclusion or designation. If the owner or owners of any privately owned property, or a majority of the owners of such properties within the district in the case of an historic district, object to such inclusion or designation, such property shall not be included on the National Register or designated as a National Historic Landmark until such objection is withdrawn. The Secretary shall review the nomination of the property or district where any such objection has been made and shall determine whether or not the property or district is eligible for such inclusion or designation, and if the Secretary determines that such property or district is eligible for such inclusion or designation, he shall inform the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official and the owner or owners of such property, of his determination. The regulations under this paragraph shall include provisions to carry out the purposes of this paragraph in the case of multiple ownership of a single property.

(7) The Secretary shall promulgate, or revise, regulations—

(A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 470h-2 of this title, the Act of June 27, 1960 (16 U.S.C. 469c) [16 U.S.C. 469 et seq.], and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) are deposited in an institution with adequate long-term curatorial capabilities;

(B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of incorporation into, or complementing, the national historical architectural and engineering records within the Library of Congress; and

(C) certifying local governments, in accordance with subsection (c)(1) of this section and for the allocation of funds pursuant to section 470c(c) of this title.

(8) The Secretary shall, at least once every 4 years, in consultation with the Council and with State Historic Preservation Officers, review significant threats to properties included in, or eligible for inclusion on, the National Register, in order to—

(A) determine the kinds of properties that may be threatened;

(B) ascertain the causes of the threats; and

(C) develop and submit to the President and Congress recommendations for appropriate action.

**(b) Regulations for State Historic Preservation Programs; periodic evaluations and fiscal audits of State programs; administration of State programs; contracts and cooperative agreements with nonprofit or educational institutions and State Historic Preservation Officers; treatment of State programs as approved programs**

(1) The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation Programs. Such regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program—

(A) provides for the designation and appointment by the Governor of a “State Historic Preservation Officer” to administer such program in accordance with paragraph (3) and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;

(B) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and

(C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

(2)(A) Periodically, but not less than every 4 years after the approval of any State program under this subsection, the Secretary, in consultation with the Council on the appropriate provisions of this subchapter, and in cooperation with the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with this subchapter.

(B) If, at any time, the Secretary determines that a major aspect of a State program is not consistent with this subchapter, the Secretary shall disapprove the program and suspend in whole or in part any contracts or cooperative agreements with the State and the State

Historic Preservation Officer under this subchapter, until the program is consistent with this subchapter, unless the Secretary determines that the program will be made consistent with this subchapter within a reasonable period of time.

(C) The Secretary, in consultation with State Historic Preservation Officers, shall establish oversight methods to ensure State program consistency and quality without imposing undue review burdens on State Historic Preservation Officers.

(D) At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal systems so long as the State system—

(i) establishes and maintains substantially similar accountability standards; and

(ii) provides for independent professional peer review.

The Secretary may also conduct periodic fiscal audits of State programs approved under this section as needed and shall ensure that such programs meet applicable accountability standards.

(3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to—

(A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties;

(B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;

(C) prepare and implement a comprehensive statewide historic preservation plan;

(D) administer the State program of Federal assistance for historic preservation within the State;

(E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

(F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

(G) provide public information, education, and training and technical assistance in historic preservation;

(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c) of this section;

(I) consult with appropriate Federal agencies in accordance with this subchapter on—

(i) Federal undertakings that may affect historic properties; and

(ii) the content and sufficiency of any plans developed to protect, manage, or reduce or mitigate harm to such properties; and

(J) advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance.

(4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

(5) Any State historic preservation program in effect under prior authority of law may be treated as an approved program for purposes of this subsection until the earlier of—

(A) the date on which the Secretary approves a program submitted by the State under this subsection, or

(B) three years after October 30, 1992.

(6)(A) Subject to subparagraphs (C) and (D), the Secretary may enter into contracts or cooperative agreements with a State Historic Preservation Officer for any State authorizing such Officer to assist the Secretary in carrying out one or more of the following responsibilities within that State—

(i) Identification and preservation of historic properties.

(ii) Determination of the eligibility of properties for listing on the National Register.

(iii) Preparation of nominations for inclusion on the National Register.

(iv) Maintenance of historical and archaeological data bases.

(v) Evaluation of eligibility for Federal preservation incentives.

Nothing in this paragraph shall be construed to provide that any State Historic Preservation Officer or any other person other than the Secretary shall have the authority to maintain the National Register for properties in any State.



(B) The Secretary may enter into a contract or cooperative agreement under subparagraph (A) only if—

(i) the State Historic Preservation Officer has requested the additional responsibility;

(ii) the Secretary has approved the State historic preservation program pursuant to subsection (b)(1) and (2) of this section;

(iii) the State Historic Preservation Officer agrees to carry out the additional responsibility in a timely and efficient manner acceptable to the Secretary and the Secretary determines that such Officer is fully capable of carrying out such responsibility in such manner;

(iv) the State Historic Preservation Officer agrees to permit the Secretary to review and revise, as appropriate in the discretion of the Secretary, decisions made by the Officer pursuant to such contract or cooperative agreement; and

(v) the Secretary and the State Historic Preservation Officer agree on the terms of additional financial assistance to the State, if there is to be any, for the costs of carrying out such responsibility.

(C) For each significant program area under the Secretary's authority, the Secretary shall establish specific conditions and criteria essential for the assumption by State Historic Preservation Officers of the Secretary's duties in each such program.

(D) Nothing in this subsection shall have the effect of diminishing the preservation programs and activities of the National Park Service.

**(c) Certification of local governments by State Historic Preservation Officer; transfer of portion of grants; certification by Secretary; nomination of properties by local governments for inclusion on National Register**

(1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this subchapter and provide for the transfer, in accordance with section 470c(c) of this title, of a portion of the grants received by the States under this subchapter, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer, and the Secretary, certifies that the local government—

(A) enforces appropriate State or local legislation for the designation and protection of historic properties;

(B) has established an adequate and qualified historic preservation review commission by State or local legislation;

(C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b) of this section;

(D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and

(E) satisfactorily performs the responsibilities delegated to it under this subchapter.

Where there is no approved State program, a local government may be certified by the Secretary if he determines that such local government meets the requirements of subparagraphs (A) through (E); and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.

(2)(A) Before a property within the jurisdiction of the certified local government may be considered by the State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property, in its opinion, meets the criteria of the National Register. Within sixty days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the State Historic Preservation Officer. Except as provided in subparagraph (B), after receipt of such report and recommendation, or if no such report and recommendation are received within sixty days, the State shall make the nomination pursuant to subsection (a) of this section. The State may expedite such process with the concurrence of the certified local government.

(B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within thirty days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If such an appeal is filed, the State shall follow the procedures for making a nomination pursuant to subsection (a) of this section. Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.

(3) Any local government certified under this section or which is making efforts to become so certified shall be eligible for funds under the provisions of section 470c(c) of this title, and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.

(4) For the purposes of this section the term—

(A) “designation” means the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government; and

(B) “protection” means a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to this subsection.

**(d) Historic properties of Indian tribes**

(1)(A) The Secretary shall establish a program and promulgate regulations to assist Indian tribes in preserving their particular historic properties. The Secretary shall foster communication and cooperation between Indian tribes and State Historic Preservation Officers in the administration of the national historic preservation program to ensure that all types of historic properties and all public interests in such properties are given due consideration, and to encourage coordination among Indian tribes, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic properties.

(B) The program under subparagraph (A) shall be developed in such a manner as to ensure that tribal values are taken into account to the extent feasible. The Secretary may waive or modify requirements of this section to conform to the cultural setting of tribal heritage preservation goals and objectives. The tribal programs implemented by specific tribal organizations may vary in scope, as determined by each tribe's chief governing authority.

(C) The Secretary shall consult with Indian tribes, other Federal agencies, State Historic Preservation Officers, and other interested parties and initiate the program under subparagraph (A) by not later than October 1, 1994.

(2) A tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with subsections (b)(2) and (b)(3) of this section, with respect to tribal lands, as such responsibilities may be modified for tribal programs through regulations issued by the Secretary, if—

(A) the tribe's chief governing authority so requests;

(B) the tribe designates a tribal preservation official to administer the tribal historic preservation program, through appointment by the tribe's chief governing authority or as a tribal ordinance may otherwise provide;

(C) the tribal preservation official provides the Secretary with a plan describing how the functions the tribal preservation official proposes to assume will be carried out;

(D) the Secretary determines, after consulting with the tribe, the appropriate State Historic Preservation Officer, the Council (if the tribe proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 470f of this title), and other tribes, if any, whose tribal or aboriginal lands may be affected by conduct of the tribal preservation program—

(i) that the tribal preservation program is fully capable of carrying out the functions specified in the plan provided under subparagraph (C);

(ii) that the plan defines the remaining responsibilities of the Secretary and the State Historic Preservation Officer; and

(iii) that the plan provides, with respect to properties neither owned by a member of the tribe nor held in trust by the Secretary for the benefit of the tribe, at the request of the owner thereof, the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in accordance with subsections (b)(2) and (b)(3) of this section; and

(E) based on satisfaction of the conditions stated in subparagraphs (A), (B), (C), and (D), the Secretary approves the plan.

(3) In consultation with interested Indian tribes, other Native American organizations and affected State Historic Preservation Officers, the Secretary shall establish and implement procedures for carrying out section 470c(a) of this title with respect to tribal programs that assume responsibilities under paragraph (2).

(4) At the request of a tribe whose preservation program has been approved to assume functions and responsibilities pursuant to paragraph (2), the Secretary shall enter into contracts or cooperative agreements with such tribe permitting the assumption by the tribe of any part of the responsibilities referred to in subsection (b)(6) of this section on tribal land, if—

(A) the Secretary and the tribe agree on additional financial assistance, if any, to the tribe for the costs of carrying out such authorities;

(B) the Secretary finds that the tribal historic preservation program has been demonstrated to be sufficient to carry out the contract or cooperative agreement and this subchapter; and

(C) the contract or cooperative agreement specifies the continuing responsibilities of the Secretary or of the appropriate State Historic Preservation Officers and provides for appropriate participation by—

(i) the tribe's traditional cultural authorities;

(ii) representatives of other tribes whose traditional lands are under the jurisdiction of the tribe assuming responsibilities; and

(iii) the interested public.

(5) The Council may enter into an agreement with an Indian tribe to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 470f of this title, if the Council, after consultation with the tribe and appropriate State Historic Preservation Officers, determines that the tribal preservation regulations will afford historic properties consideration equivalent to those afforded by the Council's regulations.

(6)(A) Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.

(B) In carrying out its responsibilities under section 470f of this title, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A).

(C) In carrying out his or her responsibilities under subsection (b)(3) of this section, the State Historic Preservation Officer for the State of Hawaii shall—

(i) consult with Native Hawaiian organizations in assessing the cultural significance of any property in determining whether to nominate such property to the National Register;

(ii) consult with Native Hawaiian organizations in developing the cultural component of a preservation program or plan for such property; and

(iii) enter into a memorandum of understanding or agreement with Native Hawaiian organizations for the assessment of the cultural significance of a property in determining whether to nominate such property to the National Register and to carry out the cultural component of such preservation program or plan.

**(e) Matching grants to States; grants to National Trust for Historic Preservation in the United States; program of direct grants for preservation of properties included on National Register; grants or loans to Indian tribes and ethnic or minority groups**

**for preservation of cultural heritage; grants for religious properties; direct grants to Indian tribes, Native Hawaiian organizations, and Micronesian States**

(1) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this subchapter.

(2) The Secretary may administer grants to the National Trust for Historic Preservation in the United States, chartered by sections 468 to 468d of this title consistent with the purposes of its charter and this subchapter.

(3)(A) In addition to the programs under paragraphs (1) and (2), the Secretary shall administer a program of direct grants for the preservation of properties included on the National Register. Funds to support such program annually shall not exceed 10 per centum of the amount appropriated annually for the fund established under section 470h of this title. These grants may be made by the Secretary, in consultation with the appropriate State Historic Preservation Officer—

(i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,

(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,

(iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation, and

(iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district.

(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage.

(C) Grants may be made under subparagraph (A)(i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 470d of this title.

(4) Grants may be made under this subsection for the preservation, stabilization, restoration, or rehabilitation of religious properties listed in the National Register of Historic Places, provided that the purpose of the grant is secular, does not promote religion, and seeks to protect those qualities that are historically significant. Nothing in

this paragraph shall be construed to authorize the use of any funds made available under this section for the acquisition of any property referred to in the preceding sentence.

(5) The Secretary shall administer a program of direct grants to Indian tribes and Native Hawaiian organizations for the purpose of carrying out this subchapter as it pertains to Indian tribes and Native Hawaiian organizations. Matching fund requirements may be modified. Federal funds available to a tribe or Native Hawaiian organization may be used as matching funds for the purposes of the tribe's or organization's conducting its responsibilities pursuant to this section.

(6)(A) As part of the program of matching grant assistance from the Historic Preservation Fund to States, the Secretary shall administer a program of direct grants to the Federated States of Micronesia, the Republic of the Marshall Islands, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau (referred to as the Micronesian States) in furtherance of the Compact of Free Association between the United States and the Federated States of Micronesia and the Marshall Islands, approved by the Compact of Free Association Act of 1985 [48 U.S.C. 1901 et seq., 2001 et seq.], the Trusteeship Agreement for the Trust Territory of the Pacific Islands, and the Compact of Free Association between the United States and Palau, approved by the Joint Resolution entitled "Joint Resolution to approve the 'Compact of Free Association' between the United States and Government of Palau, and for other purposes" [48 U.S.C. 1931 et seq.]. The goal of the program shall be to establish historic and cultural preservation programs that meet the unique needs of each Micronesian State so that at the termination of the compacts the programs shall be firmly established. The Secretary may waive or modify the requirements of this section to conform to the cultural setting of those nations.

(B) The amounts to be made available to the Micronesian States shall be allocated by the Secretary on the basis of needs as determined by the Secretary. Matching funds may be waived or modified.

**(f) Prohibition of use of funds for compensation of intervenors in preservation program**

No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this subchapter.

**(g) Guidelines for Federal agency responsibility for agency-owned historic properties**

In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 470h-2 of this title.

**(h) Professional standards for preservation of federally owned or controlled historic properties**

Within one year after December 12, 1980, the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control.

**(i) Dissemination of information concerning professional methods and techniques for preservation of historic properties**

The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.

**(j) Preservation education and training program**

(1) The Secretary shall, in consultation with the Council and other appropriate Federal, tribal, Native Hawaiian, and non-Federal organizations, develop and implement a comprehensive preservation education and training program.

(2) The education and training program described in paragraph (1) shall include—

(A) new standards and increased preservation training opportunities for Federal workers involved in preservation-related functions;

(B) increased preservation training opportunities for other Federal, State, tribal and local government workers, and students;

(C) technical or financial assistance, or both, to historically black colleges and universities, to tribal colleges, and to colleges with a high enrollment of Native Americans or Native Hawaiians, to establish preservation training and degree programs; and

(D) coordination of the following activities, where appropriate, with the National Center for Preservation Technology and Training—

(i) distribution of information on preservation technologies;



(ii) provision of training and skill development in trades, crafts, and disciplines related to historic preservation in Federal training and development programs; and

(iii) support for research, analysis, conservation, curation, interpretation, and display related to preservation.

(Pub. L. 89–665, title I, §101, Oct. 15, 1966, 80 Stat. 915; Pub. L. 93–54, §1(d), July 1, 1973, 87 Stat. 139; Pub. L. 91–383, §11, as added Pub. L. 94–458, §2, Oct. 7, 1976, 90 Stat. 1942; amended Pub. L. 96–205, title VI, §608(a)(1), (2), Mar. 12, 1980, 94 Stat. 92; Pub. L. 96–515, title II, §201(a), Dec. 12, 1980, 94 Stat. 2988; Pub. L. 102–575, title XL, §§4003–4006(a), 4007, 4008, Oct. 30, 1992, 106 Stat. 4753–4755, 4758; Pub. L. 103–437, §6(d)(29), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104–333, div. I, title VIII, §814(d)(2)(F), Nov. 12, 1996, 110 Stat. 4196; Pub. L. 106–113, div. B, §1000(a)(9) [title III, §3007], Nov. 29, 1999, 113 Stat. 1536, 1501A–551; Pub. L. 106–208, §5(a)(1)–(4), May 26, 2000, 114 Stat. 318.)

### References in Text

The effective date of this Act, referred to in subsec. (a)(1)(B), probably means the effective date of the National Historic Preservation Act Amendments of 1980, Pub. L. 96–515, approved Dec. 12, 1980, rather than the effective date of the National Historic Preservation Act, Pub. L. 89–665, which was approved Oct. 15, 1966.

Act of June 27, 1960 (16 U.S.C. 469c), referred to in subsec. (a)(7)(A), is Pub. L. 86–523, June 27, 1960, 74 Stat. 220, which enacted sections 469 to 469c–1 of this title. For complete classification of this Act to the Code, see Tables.

The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following), referred to in subsec. (a)(7)(A), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§470aa et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of this title and Tables.

Sections 468 to 468d of this title, referred to in subsec. (e)(2), was in the original “an Act of Congress approved October 26, 1949 (63 Stat. 947)”, probably meaning Act Oct. 26, 1949, ch. 755, 63 Stat. 927, which is classified to sections 468 to 468d of this title. For complete classification of this Act to the Code, see Tables.

The Compact of Free Association Act of 1985, referred to in subsec. (e)(6)(A), is Pub. L. 99–239, Jan. 14, 1986, 99 Stat. 1770, which is classified principally to part A of subchapter I (§1901 et seq.) of chapter 18 and chapter 19 (§2001 et seq.) of Title 48, Territories and Insular Possession. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 48 and Tables.

The Joint Resolution entitled “Joint Resolution to approve the ‘Compact of Free Association’ between the United States and Government of Palau, and for other purposes”, referred to in subsec. (e)(6)(A), is Pub. L. 99–658, Nov. 14, 1986, 100 Stat. 3672, which is classified generally to part A (§1931 et seq.) of subchapter II of chapter 18 of Title 48. For complete classification of this Act to the Code, see Tables.

### **Amendments**

**2000**—Subsec. (d)(2)(D)(ii). Pub. L. 106–208, §5(a)(1), inserted “and” after semicolon.

Subsec. (e)(2). Pub. L. 106–208, §5(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The Secretary shall administer a program of matching grant-in-aid to the National Trust for Historic Preservation in the United States, chartered by sections 468 to 468e of this title, for the purposes of carrying out the responsibilities of the National Trust.”

Subsec. (e)(3)(A)(iii). Pub. L. 106–208, §5(a)(3), substituted comma for semicolon after “preservation”.

Subsec. (j)(2)(C). Pub. L. 106–208, §5(a)(4), inserted “and” after semicolon at end.

**1999**—Subsec. (a)(1)(A). Pub. L. 106–113 inserted at end “Notwithstanding section 1125(c) of title 15, buildings and structures on or eligible for inclusion on the National Register of Historic Places (either individually or as part of a historic district), or designated as an individual landmark or as a contributing building in a historic district by a unit of State or local government, may retain the name historically associated with the building or structure.”

**1996**—Subsec. (a)(1)(B). Pub. L. 104–333 inserted period after “published in the Federal Register” and struck out at end “and submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Natural Resources of the United States House of Representatives.”

**1994**—Subsec. (a)(1)(B). Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

**1992**—Subsec. (a)(8). Pub. L. 102–575, §4003, added par. (8).

Subsec. (b)(2). Pub. L. 102–575, §4004(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Periodically, but not less than every four years after the approval of any State program under this subsection, the Secretary shall evaluate such program to make a determination as to whether or not it is in compliance with the requirements of this subchapter. If at any time, the Secretary determines that a State program does not comply with such requirements, he shall disapprove such

program, and suspend in whole or in part assistance to such State under subsection (d)(1) of this section, unless there are adequate assurances that the program will comply with such requirements within a reasonable period of time. The Secretary may also conduct periodic fiscal audits of State programs approved under this section.”

Subsec. (b)(3). Pub. L. 102–575, §4004(2), substituted “in historic preservation;” for “relating to the Federal and State Historic Preservation Programs; and” in subpar. (G) and added subpars. (I) and (J).

Subsec. (b)(5)(B). Pub. L. 102–575, §4004(3), substituted “October 30, 1992” for “December 12, 1980”.

Subsec. (b)(6). Pub. L. 102–575, §4004(4), added par. (6).

Subsec. (c)(4). Pub. L. 102–575, §4005, added par. (4).

Subsec. (d). Pub. L. 102–575, §4006(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 102–575, §4007, amended par. (1) generally and added pars. (4) to (6). Prior to amendment, par. (1) read as follows: “The Secretary shall administer a program of matching grants-in-aid to the States for historic preservation projects, and State historic preservation programs, approved by the Secretary and having as their purpose the identification of historic properties and the preservation of properties included on the National Register.”

Pub. L. 102–575, §4006(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsecs. (f) to (i). Pub. L. 102–575, §4006(a)(1), redesignated subsecs. (e) to (h) as (f) to (i), respectively.

Subsec. (j). Pub. L. 102–575, §4008, added subsec. (j).

**1980**—Subsec. (a). Pub. L. 96–515 substituted provision designating certain properties as National Historical Landmarks, providing for establishment by the Secretary of the Interior of criteria for inclusion on or removal from the National Register, designation of properties as National Historical Landmarks and removal of such designation, and nomination of properties for inclusion in the World Heritage List, authorizing any State, local government, or person to nominate properties for inclusion on the National Register and to appeal a nomination or refusal to nominate, requiring that before property be included on the National Register or designated as a National Historic Landmark, the owner or owners of the property be given an opportunity to concur in, or object to, its inclusion, and authorizing the Secretary to promulgate regulations to ensure

that significant prehistoric and historic artifacts and records receive proper treatment, to establish standards for documenting historic properties for incorporation in the national historical, architectural, and engineering records within the Library of Congress, and to certify local governments for allocation of funds, for provision authorizing the Secretary to grant funds to States for preparing comprehensive statewide historic surveys and plans for preservation and acquisition of historic properties, to establish programs of matching grants-in-aid to States for the purpose of historical preservation and to the National Trust for Historic Preservation in the United States for the purpose of carrying out the responsibilities of the National Trust, and to withhold from disclosure to the public, information relating to the location of sites or objects listed on the National Register whenever he determines that disclosure of specific information would create a risk of destruction or harm to such sites or objects.

Pub. L. 96–205, §608(a)(1), in par. (2) struck out “and” after “culture;”, and in par. (3) substituted “Trust; and” for “Trust.”.

Subsec. (b). Pub. L. 96–515 substituted provision authorizing the establishment of State Historic Preservation Programs, providing for periodic evaluation of these programs and periodic fiscal audits, prescribing the responsibilities of the State Historic Preservation Officer, and designating the period within which prior State historic preservation programs are to remain in effect for provision defining the terms “State”, “project”, “historic preservation”, and “Secretary”.

Pub. L. 96–205, §608(a)(2), inserted reference to the Commonwealth of the Northern Mariana Islands.

Subsecs. (c) to (h). Pub. L. 96–515 added subsecs. (c) to (h).

**1976**—Subsec. (a)(4). Pub. L. 91–383, §11, as added Pub. L. 94–458, §2, added par. (4).

**1973**—Subsec. (b)(1). Pub. L. 93–54 defined “State” to include the Trust Territory of the Pacific Islands.

### **Termination of Trust Territory of the Pacific Islands**

For termination of Trust Territory of the Pacific Islands and the Trusteeship Agreement, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### **St. Augustine 450th Commemoration Commission**

Pub. L. 111–11, title VII, §7404, Mar. 30, 2009, 123 Stat. 1219, provided that:

(a) Definitions.—In this section:

(1) Commemoration.—The term ‘commemoration’ means the commemoration of the 450th anniversary of the founding of the settlement of St. Augustine, Florida.

(2) Commission.—The term ‘Commission’ means the St. Augustine 450th Commemoration Commission established by subsection (b)(1).

(3) Governor.—The term ‘Governor’ means the Governor of the State.

(4) Secretary.—The term ‘Secretary’ means the Secretary of the Interior.

(5) State.—

(A) In general.—The term ‘State’ means the State of Florida.

(B) Inclusion.—The term ‘State’ includes agencies and entities of the State of Florida.

(b) Establishment.—

(1) In general.—There is established a commission, to be known as the ‘St. Augustine 450th Commemoration Commission’.

(2) Membership.—

(A) Composition.—The Commission shall be composed of 14 members, of whom—

(i) 3 members shall be appointed by the Secretary, after considering the recommendations of the St. Augustine City Commission;

(ii) 3 members shall be appointed by the Secretary, after considering the recommendations of the Governor;

(iii) 1 member shall be an employee of the National Park Service having experience relevant to the historical resources relating to the city of St. Augustine and the commemoration, to be appointed by the Secretary;

(iv) 1 member shall be appointed by the Secretary, taking into consideration the recommendations of the Mayor of the city of St. Augustine;

(v) 1 member shall be appointed by the Secretary, after considering the recommendations of the Chancellor of the University System of Florida; and

(vi) 5 members shall be individuals who are residents of the State who have an interest in, support for, and expertise appropriate to the commemoration, to be appointed by the Secretary, taking into consideration the recommendations of Members of Congress.

(B) Time of appointment.—Each appointment of an initial member of the Commission shall be made before the expiration of the 120-day period beginning on the date of enactment of this Act [Mar. 30, 2009].

(C) Term; vacancies.—

(i) Term.—A member of the Commission shall be appointed for the life of the Commission.

(ii) Vacancies.—

(I) In general.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(II) Partial term.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

(iii) Continuation of membership.—If a member of the Commission was appointed to the Commission as Mayor of the city of St. Augustine or as an employee of the National Park Service or the State University System of Florida, and ceases to hold such position, that member may continue to serve on the Commission for not longer than the 30-day period beginning on the date on which that member ceases to hold the position.

(3) Duties.—The Commission shall—

(A) plan, develop, and carry out programs and activities appropriate for the commemoration;

(B) facilitate activities relating to the commemoration throughout the United States;

(C) encourage civic, patriotic, historical, educational, artistic, religious, economic, and other organizations throughout the United States to organize and participate in anniversary activities to expand understanding and appreciation of the significance of the founding and continuing history of St. Augustine;

(D) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration;

(E) coordinate and facilitate for the public scholarly research on, publication about, and interpretation of, St. Augustine;

(F) ensure that the commemoration provides a lasting legacy and long-term public benefit by assisting in the development of appropriate programs; and

(G) help ensure that the observances of the foundation of St. Augustine are inclusive and appropriately recognize the experiences and heritage of all individuals present when St. Augustine was founded.

(c) Commission Meetings.—

(1) Initial meeting.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(2) Meetings.—The Commission shall meet—

(A) at least 3 times each year; or

(B) at the call of the Chairperson or the majority of the members of the Commission.

(3) Quorum.—A majority of the voting members shall constitute a quorum, but a lesser number may hold meetings.

(4) Chairperson and vice chairperson.—

(A) Election.—The Commission shall elect the Chairperson and the Vice Chairperson of the Commission on an annual basis.

(B) Absence of the chairperson.—The Vice Chairperson shall serve as the Chairperson in the absence of the Chairperson.

(5) Voting.—The Commission shall act only on an affirmative vote of a majority of the members of the Commission.

(d) Commission Powers.—

(1) Gifts.—The Commission may solicit, accept, use, and dispose of gifts, bequests, or devises of money or other property for aiding or facilitating the work of the Commission.

(2) Appointment of advisory committees.—The Commission may appoint such advisory committees as the Commission determines to be necessary to carry out this section.

(3) Authorization of action.—The Commission may authorize any member or employee of the Commission to take any action that the Commission is authorized to take under this section.

(4) Procurement.—

(A) In general.—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements, to carry out this section (except that a contract, lease, or other legal agreement made or entered into by the Commission shall not extend beyond the date of termination of the Commission).

(B) Limitation.—The Commission may not purchase real property.

(5) Postal services.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(6) Grants and technical assistance.—The Commission may—

(A) provide grants in amounts not to exceed \$20,000 per grant to communities and nonprofit organizations for use in developing programs to assist in the commemoration;

(B) provide grants to research and scholarly organizations to research, publish, or distribute information relating to the early history of St. Augustine; and

(C) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration.

(e) Commission Personnel Matters.—

(1) Compensation of members.—

(A) In general.—Except as provided in paragraph (2), a member of the Commission shall serve without compensation.

(B) Federal employees.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation other than the compensation received for the services of the member as an officer or employee of the Federal Government.

(2) Travel expenses.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(3) Director and staff.—

(A) In general.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), nominate an executive director to enable the Commission to perform the duties of the Commission.



(B) Confirmation of executive director.—The employment of an executive director shall be subject to confirmation by the Commission.

(4) Compensation.—

(A) In general.—Except as provided in subparagraph (B), the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) Maximum rate of pay.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(5) Detail of government employees.—

(A) Federal employees.—

(i) Detail.—At the request of the Commission, the head of any Federal agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(ii) Civil service status.—The detail of an employee under clause (i) shall be without interruption or loss of civil service status or privilege.

(B) State employees.—The Commission may—

(i) accept the services of personnel detailed from the State; and

(ii) reimburse the State for services of detailed personnel.

(6) Procurement of temporary and intermittent services.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(7) Volunteer and uncompensated services.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use such voluntary and uncompensated services as the Commission determines to be necessary.

(8) Support services.—

(A) In general.—The Secretary shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(B) Reimbursement.—Any reimbursement under this paragraph shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

(9) FACA nonapplicability.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(10) No effect on authority.—Nothing in this subsection supersedes the authority of the State, the National Park Service, the city of St. Augustine, or any designee of those entities, with respect to the commemoration.

(f) Plans; Reports.—

(1) Strategic plan.—The Commission shall prepare a strategic plan for the activities of the Commission carried out under this section.

(2) Final report.—Not later than September 30, 2015, the Commission shall complete and submit to Congress a final report that contains—

(A) a summary of the activities of the Commission;

(B) a final accounting of funds received and expended by the Commission; and

(C) the findings and recommendations of the Commission.

(g) Authorization of Appropriations.—

(1) In general.—There is authorized to be appropriated to the Commission to carry out this section \$500,000 for each of fiscal years 2009 through 2015.

(2) Availability.—Amounts made available under paragraph (1) shall remain available until December 31, 2015.

(h) Termination of Commission.—

(1) Date of termination.—The Commission shall terminate on December 31, 2015.

(2) Transfer of documents and materials.—Before the date of termination specified in paragraph (1), the Commission shall transfer all documents and materials of the Commission to the National Archives or another appropriate Federal entity.

### **Recovery of Fees for Review Services for Historic Preservation Tax Certification**

Pub. L. 106–113, div. B, §1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–142, provided in part: “That notwithstanding any other provision of law, the National Park Service may hereafter recover all fees derived from providing necessary review services associated with historic preservation tax certification, and such funds shall be available until expended without further appropriation for the costs of such review services”.

### **Women's Progress Commemoration**

Pub. L. 105–341, Oct. 31, 1998, 112 Stat. 3196, provided that:

#### **§1. SHORT TITLE.**

This Act may be cited as the ‘Women's Progress Commemoration Act’.

#### **§2. DECLARATION.**

Congress declares that—

- (1) the original Seneca Falls Convention, held in upstate New York in July 1848, convened to consider the social conditions and civil rights of women at that time;
- (2) the convention marked the beginning of an admirable and courageous struggle for equal rights for women;
- (3) the 150th Anniversary of the convention provides an excellent opportunity to examine the history of the women's movement; and
- (4) a Federal Commission should be established for the important task of ensuring the historic preservation of sites that have been instrumental in American women's history, creating a living legacy for generations to come.

#### **§3. ESTABLISHMENT OF COMMISSION.**

(a) Establishment.—There is established a commission to be known as the ‘Women's Progress Commemoration Commission’ (referred to in this Act as the ‘Commission’).

(b) Membership.—

- (1) In general.—The Commission shall be composed of 15 members, of whom—
  - (A) 3 shall be appointed by the President;
  - (B) 3 shall be appointed by the Speaker of the House of Representatives;

(C) 3 shall be appointed by the minority leader of the House of Representatives;

(D) 3 shall be appointed by the majority leader of the Senate; and

(E) 3 shall be appointed by the minority leader of the Senate.

(2) Persons eligible.—

(A) In general.—The members of the Commission shall be individuals who have knowledge or expertise, whether by experience or training, in matters to be studied by the Commission. The members may be from the public or private sector, and may include Federal, State, or local employees, members of academia, nonprofit organizations, or industry, or other interested individuals.

(B) Diversity.—It is the intent of Congress that persons appointed to the Commission under paragraph (1) be persons who represent diverse economic, professional, and cultural backgrounds.

(3) Consultation and appointment.—

(A) In general.—The President, Speaker of the House of Representatives, minority leader of the House of Representatives, majority leader of the Senate, and minority leader of the Senate shall consult among themselves before appointing the members of the Commission in order to achieve, to the maximum extent practicable, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

(B) Completion of appointments; vacancies.—The President, Speaker of the House of Representatives, minority leader of the House of Representatives, majority leader of the Senate, and minority leader of the Senate shall conduct the consultation under subparagraph (3) and make their respective appointments not later than 60 days after the date of enactment of this Act [Oct. 31, 1998].

(4) Vacancies.—A vacancy in the membership of the Commission shall not affect the powers of the Commission and shall be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

(c) Meetings.—

(1) Initial meeting.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(2) Subsequent meetings.—After the initial meeting, the Commission shall meet at the call of the Chairperson.

(d) Quorum.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but a lesser number of members may hold hearings.

(e) Chairperson and Vice Chairperson.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

#### **§4. DUTIES OF THE COMMISSION.**

Not later than 1 year after the initial meeting of the Commission, the Commission, in cooperation with the Secretary of the Interior and other appropriate Federal, State, and local public and private entities, shall prepare and submit to the Secretary of the Interior a report that—

- (1) identifies sites of historical significance to the women's movement; and
- (2) recommends actions, under the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other law, to rehabilitate and preserve the sites and provide to the public interpretive and educational materials and activities at the sites.

#### **§5. POWERS OF THE COMMISSION.**

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties of this Act.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. At the request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

#### **§6. COMMISSION PERSONNEL MATTERS.**

(a) Compensation of Members.—A member of the Commission who is not otherwise an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. A member of the Commission who is otherwise an officer or employee of the United States shall serve without compensation in addition to that received for services as an officer or employee of the United States.

(b) Travel Expenses.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies

under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of service for the Commission.

(c) Staff.—

(1) In general.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) Compensation.—The executive director shall be compensated at a rate not to exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairperson may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of that title.

(3) Detail of government employees.—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and the detail shall be without interruption or loss of civil service status, benefits, or privilege.

(d) Procurement of Temporary and Intermittent Services.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay prescribed for a position at level V of the Executive Schedule under section 5316 of that title.

## **§7. FUNDING.**

(a) Authorization of Appropriations.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this Act.

(b) Donations.—The Commission may accept donations from non-Federal sources to defray the costs of the operations of the Commission.

## **§8. TERMINATION.**

The Commission shall terminate on the date that is 30 days after the date on which the Commission submits to the Secretary of the Interior the report under section 4(b) [sic].

## **§9. REPORTS TO CONGRESS.**

Not later than 2 years and not later than 5 years after the date on which the Commission submits to the Secretary of the Interior the report under section 4, the Secretary of the Interior shall submit to Congress a report describing the actions that have been taken to preserve the sites identified in the Commission report as being of historical significance.

### **Historically Black Colleges and Universities Historic Building Restoration and Preservation**

Pub. L. 104–333, div. I, title V, §507, Nov. 12, 1996, 110 Stat. 4156, as amended by Pub. L. 108–7, div. F, title I, §150, Feb. 20, 2003, 117 Stat. 245, provided that:

(a) **Authority To Make Grants.**—From the amounts made available to carry out the National Historic Preservation Act [16 U.S.C. 470 et seq.], the Secretary of the Interior shall make grants in accordance with this section to eligible historically black colleges and universities for the preservation and restoration of historic buildings and structures on the campus of these institutions.

(b) **Grant Conditions.**—Grants made under subsection (a) shall be subject to the condition that the grantee covenants, for the period of time specified by the Secretary, that—

(1) no alteration will be made in the property with respect to which the grant is made without the concurrence of the Secretary; and

(2) reasonable public access to the property with respect to which the grant is made will be permitted by the grantee for interpretive and educational purposes.

(c) **Matching Requirement for Buildings and Structures Listed on the National Register of Historic Places.**—

(1) **In general.**—Except as provided by paragraphs (2) and (3), the Secretary may obligate funds made available under this section for a grant with respect to a building or structure listed on, or eligible for listing on, the National Register of Historic Places only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal or greater than the grant.

(2) **Waiver.**—The Secretary may waive paragraphs (1) and (3) with respect to a grant if the Secretary determines from circumstances that an extreme emergency exists or that such a waiver is in the public interest to assure the preservation of historically significant resources.

(3) Exception.—The Secretary shall not obligate funds made available under subsection (d)(2) for a grant with respect to a building or structure listed on, or eligible for listing on, the National Register of Historic Places unless the grantee agrees to provide, from funds derived from non-Federal sources, an amount that is equal to 30 percent of the total cost of the project for which the grant is provided.

(d) Funding Provision.—

(1) In general.—Under section 108 of the National Historic Preservation Act [16 U.S.C. 470h], \$29,000,000 shall be made available to carry out the purposes of this section. Of amounts made available pursuant to this section, \$5,000,000 shall be available for grants to Fisk University, \$2,500,000 shall be available for grants to Knoxville College, \$2,000,000 shall be available for grants to Miles College, Alabama, \$1,500,000 shall be available for grants to Talladega College, Alabama, \$1,550,000 shall be available for grants to Selma University, Alabama, \$250,000 shall be available for grants to Stillman College, Alabama, \$200,000 shall be available for grants to Concordia College, Alabama, \$2,900,000 shall be available for grants to Allen University, South Carolina, \$1,000,000 shall be available for grants to Claflin College, South Carolina, \$2,000,000 shall be available for grants to Voorhees College, South Carolina, \$1,000,000 shall be available for grants to Rust College, Mississippi, and \$3,000,000 shall be available for grants to Tougaloo College, Mississippi.

(2) Additional funding.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated from the Historic Preservation Fund to carry out this section \$10,000,000 for each of fiscal years 2003 through 2008.

(e) Regulations.—The Secretary shall develop such guidelines as may be necessary to carry out this section.

(f) Definitions.—For the purposes of this section:

(1) Historically black colleges.—The term ‘historically black colleges and universities’ has the same meaning given the term ‘part B institution’ by section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(2) Historic building and structures.—The term ‘historic building and structures’ means a building or structure listed on, or eligible for listing on, the National Register of Historic Places or designated a National Historic Landmark.

### **Recommendations of Historic Properties for Preservation**

Section 4021 of Pub. L. 102–575 provided that: “The Secretary of the Interior, in consultation with the Advisory Council, shall seek to ensure that historic properties



preserved under the National Historic Preservation Act [16 U.S.C. 470 et seq.] fully reflect the historical experience of this nation.”

### **Secretarial Report**

Section 4025 of Pub. L. 102–575 directed Secretary of the Interior, not later than one year after Oct. 30, 1992, to prepare and submit to Congress a report on the manner in which properties are listed or determined to be eligible for listing on the National Register, including but not limited to, the appropriateness of the criteria used in determining such eligibility, and the effect, if any, of such listing or finding of eligibility.

### **Preservation and Conservation of Intangible Aspects of American Cultural Heritage; Report to President and Congress**

Section 502 of Pub. L. 96–515 directed Secretary, in cooperation with American Folklife Center of Library of Congress, to submit within two years after Dec. 12, 1980, a report to President and Congress on preserving and conserving the intangible elements of our cultural heritage such as arts, skills, folklife, and folkways, the report to take into account the view of other public and private organizations, as appropriate, and to include recommendations for legislative and administrative actions by Federal Government in order to preserve, conserve, and encourage the continuation of the diverse traditional prehistoric, historic, ethnic, and folk cultural traditions that underlie and are a living expression of our American heritage.

### **Coordinated System of Cultural Parks and Historic Conservation Districts; Comprehensive Study and Formulation of Recommendations; Report to President and Congress**

Section 506 of Pub. L. 96–515 directed Secretary to undertake a comprehensive study and formulate recommendations for a coordinated system of cultural parks and historic conservation districts that provide for preservation, interpretation, development, and use by public and private entities of prehistoric, historic, architectural, cultural, and recreational resources found in definable urban areas throughout the Nation; the study to propose alternatives concerning management and funding of such system by public and private entities and by various levels of government; and directed Secretary to submit a report of his study and recommendations to President and Congress within two years after Dec. 12, 1980.

### **Fire in Historic Properties; Protective Measures; Report to President and Congress**

Section 507 of Pub. L. 96–515 directed Secretary, in cooperation with Secretary of the Treasury, Administrator of United States Fire Administration, and Administrator of Federal Insurance Administration, to submit a report to President and Congress on fire in historic properties, such report to include a review of Federal laws to determine any

relationship between these laws and arson or fire by ‘suspicious origin’, to make recommendations respecting amendments to such laws should a correlation be found to exist, to include the feasibility and necessity of establishing or developing protective measures at the Federal, State, or local level for the prevention, detection, and control of arson or fire by ‘suspicious origin’ in historic properties, to include recommendations regarding the Federal role in assisting the States and local governments with protecting historic properties from damage by fire, and to be submitted within eighteen months after Dec. 12, 1980.

#### **§470a–1. World Heritage Convention**

##### **(a) United States participation**

The Secretary of the Interior shall direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

##### **(b) Nomination of property to World Heritage Committee**

The Secretary of the Interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any such nomination, the Secretary shall notify the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

##### **(c) Nomination of non-Federal property to World Heritage Committee**

No non-Federal property may be nominated by the Secretary of the Interior to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in writing to such nomination.

(Pub. L. 96–515, title IV, §401, Dec. 12, 1980, 94 Stat. 3000; Pub. L. 103–437, §6(d)(28), Nov. 2, 1994, 108 Stat. 4584.)

#### **Codification**

Section was enacted as part of the National Historic Preservation Act Amendments of 1980, and not as part of the National Historic Preservation Act, Pub. L. 89–665, which is classified generally to this subchapter.

### **Amendments**

**1994**—Subsec. (b). Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

### **§470a–2. Federal undertakings outside United States; mitigation of adverse effects**

Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

(Pub. L. 96–515, title IV, §402, Dec. 12, 1980, 94 Stat. 3000.)

### **Codification**

Section was enacted as part of the National Historic Preservation Act Amendments of 1980, and not as part of the National Historic Preservation Act, Pub. L. 89–665, which is classified generally to this subchapter.

### **§470b. Requirements for awarding of grant funds**

#### **(a) Grant applications; amounts; reports; conditions**

No grant may be made under this subchapter—

- (1) unless application therefor is submitted to the Secretary in accordance with regulations and procedures prescribed by him;
- (2) unless the application is in accordance with the comprehensive statewide historic preservation plan which has been approved by the Secretary after considering its relationship to the comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) [16 U.S.C. 4601–4 et seq.];
- (3) for more than 60 percent of the aggregate costs of carrying out projects and programs under the administrative control of the State Historic Preservation Officer as specified in section 470a(b)(3) of this title in any one fiscal year;

(4) unless the grantee has agreed to make such reports, in such form and containing such information as the Secretary may from time to time require;

(5) unless the grantee has agreed to assume, after completion of the project, the total cost of the continued maintenance, repair, and administration of the property in a manner satisfactory to the Secretary; and

(6) until the grantee has complied with such further terms and conditions as the Secretary may deem necessary or advisable.

Except as permitted by other law, the State share of the costs referred to in paragraph (3) shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this subchapter shall be treated as taxable income for purposes of title 26.

**(b) Waiver**

The Secretary may in his discretion waive the requirements of subsection (a), paragraphs (2) and (5) of this section for any grant under this subchapter to the National Trust for Historic Preservation in the United States.

**(c) Repealed. Pub. L. 96-515, title II, §202(c), Dec. 12, 1980, 94 Stat. 2993**

**(d) <sup>1</sup> Remaining cost of project**

No State shall be permitted to utilize the value of real property obtained before October 15, 1966, in meeting the remaining cost of a project for which a grant is made under this subchapter.

**(d) <sup>1</sup> Availability**

The Secretary shall make funding available to individual States and the National Trust for Historic Preservation as soon as practicable after execution of a grant agreement. For purposes of administration, grants to individual States and the National Trust each shall be considered to be one grant and shall be administered by the National Park Service as such.

**(e) Administrative costs**

The total administrative costs, direct and indirect, charged for carrying out State projects and programs may not exceed 25 percent of the aggregate costs except in the case of grants under section 470a(e)(6) of this title.

(Pub. L. 89–665, title I, §102, Oct. 15, 1966, 80 Stat. 916; Pub. L. 94–422, title II, §201(1), Sept. 28, 1976, 90 Stat. 1319; Pub. L. 96–515, title IV, §202, Dec. 12, 1980, 94 Stat. 2993; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102–575, title XL, §4009, Oct. 30, 1992, 106 Stat. 4759; Pub. L. 106–208, §5(a)(5), May 26, 2000, 114 Stat. 318.)

### References in Text

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (a)(2), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§4601–4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601–4 of this title and Tables.

### Amendments

**2000**—Subsec. (a)(3). Pub. L. 106–208 substituted “year;” for “year.” at end.

**1992**—Subsec. (a)(3). Pub. L. 102–575, §4009(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “for more than 50 per centum of the aggregate cost of carrying out projects and programs specified in section 470a(d)(1) and (2) of this title in any one fiscal year, except that for the costs of State or local historic surveys or inventories the Secretary shall provide 70 per centum of the aggregate cost involved in any one fiscal year.”

Subsec. (b). Pub. L. 102–575, §4009(2), which directed amendment of subsec. (b) by striking out “, in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory for the Secretary”, was executed by striking out “, in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory to the Secretary” after “United States” to reflect the probable intent of Congress.

Subsecs. (d), (e). Pub. L. 102–575, §4009(3), added subsec. (d), relating to availability, and subsec. (e).

**1986**—Subsec. (a). Pub. L. 99–514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

**1980**—Subsec. (a). Pub. L. 96–515, §202(a), (b), in par. (3) substituted provision directing that no grant be made for more than 50 per centum of the aggregate cost of carrying out projects and programs specified in section 470a(d)(1) and (2) of this title in any one fiscal year, except that for costs of State or local historic surveys or inventories

the Secretary provide 70 per centum of the aggregate cost involved in any one fiscal year for provision directing that no grant be made for more than 50 per centum of the total cost involved, as determined by the Secretary, which determination was to be final, and inserted provision following cl. (6), that, except as otherwise permitted, the State share of the costs referred to in par. (3) be contributed by non-Federal sources and no grant made be treated as taxable income.

Subsec. (c). Pub. L. 96–515, §202(c), struck out subsec. (c) which authorized the Secretary in his discretion to waive the requirements of subsec. (a)(3) of this section for the purposes of making grants for the preparation of statewide historic preservation plans and surveys and project plans and restricted any grant made pursuant to this subsection to not to exceed 70 per centum of the cost of the project, with the total cost of grants made pursuant to this subsection in any fiscal year not to exceed one-half of the funds appropriated for that fiscal year pursuant to section 470h of this title.

**1976**—Pub. L. 94–422 reenacted subsecs. (a) and (b) without change, added subsec. (c), and redesignated former subsec. (c) as (d).

<sup>1</sup> So in original. Two subsecs. (d) have been enacted.

#### **§470b–1. Grants to National Trust for Historic Preservation**

##### **(a) Authority of Secretary of Housing and Urban Development; renovation or restoration costs; terms and conditions; amounts**

The Secretary of Housing and Urban Development is authorized to make grants to the National Trust for Historic Preservation, on such terms and conditions and in such amounts (not exceeding \$90,000 with respect to any one structure) as he deems appropriate, to cover the costs incurred by such Trust in renovating or restoring structures which it considers to be of historic or architectural value and which it has accepted and will maintain (after such renovation or restoration) for historic purposes.

##### **(b) Authorization of appropriations**

There are authorized to be appropriated such sums as may be necessary for the grants to be made under subsection (a) of this section.

(Pub. L. 89–754, title VI, §603, Nov. 3, 1966, 80 Stat. 1278.)

#### **Codification**

Section was enacted as part of the Demonstration Cities and Metropolitan Development Act of 1966, and not as part of the National Historic Preservation Act, Pub. L. 89–665, which is classified generally to this subchapter.

**§470c. Apportionment of grant funds****(a) Basis for apportionment**

The amounts appropriated and made available for grants to the States for the purposes of this subchapter shall be apportioned among the States by the Secretary on the basis of needs as determined by him.

**(b) Basis; notification to State; reapportionment**

The amounts appropriated and made available for grants to the States for projects and programs under this subchapter for each fiscal year shall be apportioned among the States as the Secretary determines to be appropriate.

The Secretary shall notify each State of its apportionment under this subsection within thirty days following the date of enactment of legislation appropriating funds under this subchapter. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given, and for two fiscal years thereafter, shall be reapportioned by the Secretary in accordance with this subsection. The Secretary shall analyze and revise as necessary the method of apportionment. Such method and any revision thereof shall be published by the Secretary in the Federal Register.

**(c) Transfer of funds to local governments**

A minimum of 10 per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this subchapter shall be transferred by the State, pursuant to the requirements of this subchapter, to local governments which are certified under section 470a(c) of this title for historic preservation projects or programs of such local governments. In any year in which the total annual apportionment to the States exceeds \$65,000,000, one half of the excess shall also be transferred by the States to local governments certified pursuant to section 470a(c) of this title.

**(d) Guidelines for use and distribution of funds to local governments**

The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) of this section to insure that no local government receives a disproportionate share of the funds available, and may include a maximum or minimum limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than 10 per centum of its annual apportionment under subsection (c) of this section, nor shall the Secretary require any State to exceed the 10 per centum minimum distribution to local governments.

(Pub. L. 89–665, title I, §103, Oct. 15, 1966, 80 Stat. 916; Pub. L. 94–422, title II, §201(2), Sept. 28, 1976, 90 Stat. 1319; Pub. L. 96–515, title II, §203, Dec. 12, 1980, 94 Stat. 2993; Pub. L. 102–575, title XL, §4010, Oct. 30, 1992, 106 Stat. 4759; Pub. L. 106–208, §5(a)(6), May 26, 2000, 114 Stat. 318.)

### **Amendments**

**2000**—Subsec. (a). Pub. L. 106–208 substituted “purposes of this subchapter” for “purposes this subchapter” and “determined by him.” for “determined by him.”.

**1992**—Subsec. (a). Pub. L. 102–575, §4010(1), substituted “for the purposes this subchapter” for “for comprehensive statewide historic surveys and plans under this subchapter”.

Subsec. (b). Pub. L. 102–575, §4010(2), (3), substituted “as the Secretary determines to be appropriate” for “by the Secretary in accordance with needs as disclosed in approved statewide historic preservation plans” and inserted at end “The Secretary shall analyze and revise as necessary the method of apportionment. Such method and any revision thereof shall be published by the Secretary in the Federal Register.”

**1980**—Subsec. (b). Pub. L. 96–515, §203(a), inserted “and programs” after “projects” and substituted provision directing the Secretary to notify each State of its apportionment under this subsection within thirty days following enactment of legislation appropriating funds for provision directing the Secretary to notify each State of its apportionment, with the amounts available thereafter for payment to such State.

Subsecs. (c), (d). Pub. L. 96–515, §203(b), added subsecs. (c) and (d).

**1976**—Subsec. (a). Pub. L. 94–422, which directed amendment of subsec. (a) by deleting “Provided, however, That the amount granted to any one State shall not exceed 50 per centum of the total cost of the comprehensive statewide historic survey and plan for that State, as determined by the Secretary,” after “determined by him.”, was executed by deleting the quoted language, which did not contain a comma after “Secretary”, to reflect the probable intent of Congress.

### **§470d. Loan insurance program for preservation of property included on National Register**

#### **(a) Establishment**

The Secretary shall establish and maintain a program by which he may, upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a property included on the National Register.



**(b) Loan qualifications**

A loan may be insured under this section only if—

- (1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;
- (2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed such amount, and such a rate, as is established by the Secretary, by rule;
- (3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;
- (4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;
- (5) the repayment period of the loan does not exceed the lesser of forty years or the expected life of the asset financed;
- (6) the amount insured with respect to such loan does not exceed 90 per centum of the loss sustained by the lender with respect to the loan; and
- (7) the loan, the borrower, and the historic property to be preserved meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.

The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.

**(c) Limitation on amount of unpaid principal balance of loans**

The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed the amount which has been covered into the Historic Preservation Fund pursuant to section 470h of this title and subsections (g) and (i) of this section, as in effect on December 12, 1980, but which has not been appropriated for any purpose.

**(d) Assignability of insurance contracts; contract as obligation of United States; contestability**

Any contract of insurance executed by the Secretary under this section may be assignable, shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

**(e) Conditions and methods of payment as result of loss**

The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

**(f) Protection of financial interests of Federal Government**

In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may—

- (1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the property securing a loan insured under this part; and
- (2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g) of this section.

**(g) Conveyance to governmental or nongovernmental entity of property acquired by foreclosure**

(1) In any case in which a historic property is obtained pursuant to subsection (f) of this section, the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property's continued preservation and use; except that if, after a reasonable time, the Secretary, in consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction.

(2) Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the historic preservation fund, in addition to the amounts covered into such fund pursuant to section 470h of this title and subsection (i) of this section, and shall remain available in such fund until appropriated by the Congress to carry out the purposes of this subchapter.

**(h) Assessment of fees in connection with loans**

The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section. Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such fund pursuant to section 470h of this title and subsection (g) of this section, and shall remain available in such fund until appropriated by the Congress to carry out purposes of this subchapter.

**(i) Treatment of loans as non-Federal funds**

Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for payment of any portion of the costs of such project or activity.

**(j) Authorization of appropriations for payment of losses**

Effective after the fiscal year 1981 there are authorized to be appropriated, such sums as may be necessary to cover payments incurred pursuant to subsection (e) of this section.

**(k) Eligibility of debt obligation for purchase, etc., by Federal Financing Bank**

No debt obligation which is made or committed to be made, or which is insured or committed to be insured, by the Secretary under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

(Pub. L. 89–665, title I, §104, Oct. 15, 1966, 80 Stat. 917; Pub. L. 96–515, title II, §204, Dec. 12, 1980, 94 Stat. 2994.)

**Codification**

In subsec. (c), “December 12, 1980” substituted for “the date of enactment of this Act”. “This Act” probably meant the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515) rather than the National Historic Preservation Act of 1966 (Pub. L. 89–665).

**Amendments**

**1980**—Subsec. (a). Pub. L. 96–515 substituted provision authorizing the Secretary to establish and maintain a program by which he, upon application of a private lender, insure loans made by such lender to finance any project for the preservation of a property included on the National Register for provision prohibiting grants to surveys or projects receiving assistance from any other Federal program or activity.

Subsec. (b). Pub. L. 96–515 substituted provision prescribing loan qualifications for provision authorizing the President, in order to assure consistency in policies and actions and coordination of planning, acquisition, and development assistance to States with other related Federal programs, to issue regulations as deemed desirable.

Subsecs. (c) to (k). Pub. L. 96–515 added subsecs. (c) to (k).

## **Transfer of Functions**

Enforcement functions of Secretary or other official in Department of the Interior and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with historic preservation under sections 470 to 470a, 470b, and 470c to 470w–6 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

### **§470e. Recordkeeping; recipients of assistance; audit**

The beneficiary of assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the disposition by the beneficiary of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(Pub. L. 89–665, title I, §105, Oct. 15, 1966, 80 Stat. 917.)

### **§470f. Effect of Federal undertakings upon property listed in National Register; comment by Advisory Council on Historic Preservation**

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under part B of this subchapter a reasonable opportunity to comment with regard to such undertaking.

(Pub. L. 89–665, title I, §106, Oct. 15, 1966, 80 Stat. 917; Pub. L. 94–422, title II, §201(3), Sept. 28, 1976, 90 Stat. 1320.)

### **Amendments**

**1976**—Pub. L. 94–422 inserted “or eligible for inclusion in” after “included in”.

### **Transfer of Functions**

Enforcement functions of Secretary or other official in Department of the Interior and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with historic preservation under sections 470 to 470a, 470b, and 470c to 470w–6 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

### **Reporting Requirements of Advisory Council on Historic Preservation**

Pub. L. 104–333, div. I, title V, §509(b), Nov. 12, 1996, 110 Stat. 4157, provided that: “Within 18 months after the date of enactment of this Act [Nov. 12, 1996], the Advisory Council on Historic Preservation shall submit a report to the appropriate congressional committees containing an analysis of alternatives for modifying the regulatory process for addressing impacts of Federal actions on nationally significant historic properties, as well as alternatives for future promulgation and oversight of regulations for implementation of section 106 of the National Historic Preservation Act [16 U.S.C. 470f].”

### **§470g. White House, United States Supreme Court building, and United States Capitol not included in program for preservation of historical properties**

Nothing in this subchapter shall be construed to be applicable to the White House and its grounds, the Supreme Court building and its grounds, or the United States Capitol and its related buildings and grounds.

(Pub. L. 89–665, title I, §107, Oct. 15, 1966, 80 Stat. 917.)

**§470h. Historic Preservation Fund; establishment; appropriations; source of revenue**

To carry out the provisions of this subchapter, there is hereby established the Historic Preservation Fund (hereafter referred to as the “fund”) in the Treasury of the United States.

There shall be covered into such fund \$24,400,000 for fiscal year 1977, \$100,000,000 for fiscal year 1978, \$100,000,000 for fiscal year 1979, \$150,000,000 for fiscal year 1980, and \$150,000,000 for fiscal year 1981, and \$150,000,000 for each of fiscal years 1982 through 2015, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 1338), and/or under section 7433(b) of title 10, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this subchapter and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: Provided, That appropriations made pursuant to this paragraph may be made without fiscal year limitation.

(Pub. L. 89–665, title I, §108, Oct. 15, 1966, 80 Stat. 917; Pub. L. 91–243, §1(a), May 9, 1970, 84 Stat. 204; Pub. L. 93–54, §1(a), July 1, 1973, 87 Stat. 139; Pub. L. 94–422, title II, §201(4), Sept. 28, 1976, 90 Stat. 1320; Pub. L. 96–515, title II, §205, Dec. 12, 1980, 94 Stat. 2995; Pub. L. 100–127, Oct. 9, 1987, 101 Stat. 800; Pub. L. 102–575, title XL, §4011, Oct. 30, 1992, 106 Stat. 4760; Pub. L. 106–208, §§2, 5(a)(7), May 26, 2000, 114 Stat. 318, 319; Pub. L. 109–453, §1(c), Dec. 22, 2006, 120 Stat. 3367.)

**References in Text**

The Outer Continental Shelf Lands Act, referred to in second par., is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. Section 9 of the Act (43 U.S.C. 1338) provides for the disposition of revenues. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

**Codification**

“Section 7433(b) of title 10” substituted in text for “the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C. 191)”, which was classified to section 524 of former Title 34, Navy, on authority of act Aug. 10, 1956, ch. 1041, §49(b), 70A Stat. 640, the first section of which enacted Title 10, Armed Forces.

## **Amendments**

**2006**—Pub. L. 109–453 substituted “2015” for “2005”.

**2000**—Pub. L. 106–208 substituted “through 2005” for “through 1997” and “(43 U.S.C. 1338)” for “(43 U.S.C. 338)”.

**1992**—Pub. L. 102–575 substituted “1997” for “1992”.

**1987**—Pub. L. 100–127 substituted “1992” for “1987”.

**1980**—Pub. L. 96–515 inserted “and \$150,000,000 for each of fiscal years 1982 through 1987” after “1981”.

**1976**—Pub. L. 94–422 substituted provisions establishing Historic Preservation Fund which contains appropriations obtained from revenues due and payable to United States pursuant to Outer Continental Shelf Lands Act and Act June 4, 1920 to carry out provisions of sections 470 to 470t of this title for provisions authorizing appropriations to carry out provisions of sections 470a, 470b, and 470c to 470h of this title of not more than \$15,600,000 in fiscal year 1974, \$20,000,000 in fiscal year 1975, and \$24,400,000 in fiscal year 1976 to remain available until expended.

**1973**—Pub. L. 93–54 substituted appropriations authorization of \$15,600,000, \$20,000,000 and \$24,400,000 for fiscal years 1974 through 1976, respectively, for such authorization of \$7,000,000, \$10,000,000, and \$15,000,000 for fiscal years 1971 through 1973, respectively.

**1970**—Pub. L. 91–243 substituted provisions authorizing appropriations of not more than \$7,000,000 for fiscal year 1971, and \$10,000,000 and \$15,000,000 for fiscal years 1972 and 1973, respectively, to carry out the provisions of sections 470a, 470b, and 470c, to 470h of this title for provisions authorizing the appropriation of not to exceed \$2,000,000 for fiscal year 1967 and not more than \$10,000,000 for the three succeeding fiscal years to carry out the provisions of sections 470 to 470b, and 470c to 470n of this title.

## **Review of Operation of Historic Preservation Fund and National Historic Preservation Program; Report to President and Congress**

Section 504 of Pub. L. 96–515 provided that: “The Secretary shall submit a report directly to the President and the Congress on or before June 1, 1986, reviewing the operation of the Historic Preservation Fund and the national historic preservation program since the enactment of this Act [Dec. 12, 1980] and recommending appropriate funding levels, the time period for the reauthorization for appropriations from the fund,

and other appropriate legislative action to be undertaken upon the expiration of the current fund authorization.”

#### **§470h–1. Acceptance of privately donated funds by Secretary**

##### **(a) Authorization; use of funds**

In furtherance of the purposes of this subchapter, the Secretary may accept the donation of funds which may be expended by him for projects to acquire, restore, preserve, or recover data from any district, building, structure, site, or object which is listed on the National Register of Historic Places established pursuant to section 470a of this title, so long as the project is owned by a State, any unit of local government, or any nonprofit entity.

##### **(b) Consideration of factors respecting expenditure of funds**

In expending said funds, the Secretary shall give due consideration to the following factors: the national significance of the project; its historical value to the community; the imminence of its destruction or loss; and the expressed intentions of the donor. Funds expended under this subsection shall be made available without regard to the matching requirements established by section 470b of this title but the recipient of such funds shall be permitted to utilize them to match any grants from the Historic Preservation Fund established by section 470h of this title.

##### **(c) Transfer of unobligated funds**

The Secretary is hereby authorized to transfer unobligated funds previously donated to the Secretary for the purposes of the National Park Service, with the consent of the donor, and any funds so transferred shall be used or expended in accordance with the provisions of this subchapter.

(Pub. L. 89–665, title I, §109, as added Pub. L. 96–244, §1, May 19, 1980, 94 Stat. 346.)

#### **§470h–2. Historic properties owned or controlled by Federal agencies**

##### **(a) Responsibilities of Federal agencies; program for identification, evaluation, nomination, and protection**

(1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency, in accordance with Executive Order No. 13006, issued May 21, 1996 (61 Fed. Reg. 26071). Each agency shall undertake, consistent with the



preservation of such properties and the mission of the agency and the professional standards established pursuant to section 470a(g) of this title, any preservation, as may be necessary to carry out this section.

(2) Each Federal agency shall establish (unless exempted pursuant to section 470v of this title), in consultation with the Secretary, a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties. Such program shall ensure—

(A) that historic properties under the jurisdiction or control of the agency, are identified, evaluated, and nominated to the National Register;

(B) that such properties under the jurisdiction or control of the agency as are listed in or may be eligible for the National Register are managed and maintained in a way that considers the preservation of their historic, archaeological, architectural, and cultural values in compliance with section 470f of this title and gives special consideration to the preservation of such values in the case of properties designated as having National significance;

(C) that the preservation of properties not under the jurisdiction or control of the agency, but subject to be potentially affected by agency actions are given full consideration in planning;

(D) that the agency's preservation-related activities are carried out in consultation with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations carrying out historic preservation planning activities, and with the private sector; and

(E) that the agency's procedures for compliance with section 470f of this title—

(i) are consistent with regulations issued by the Council pursuant to section 470s of this title;

(ii) provide a process for the identification and evaluation of historic properties for listing in the National Register and the development and implementation of agreements, in consultation with State Historic Preservation Officers, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, as appropriate, regarding the means by which adverse effects on such properties will be considered; and

(iii) provide for the disposition of Native American cultural items from Federal or tribal land in a manner consistent with section 3002(c) of title 25.

**(b) Records on historic properties to be altered or demolished; deposit in Library of Congress or other appropriate agency**

Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, an historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited, in accordance with section 470a(a) of this title, in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference.

**(c) Agency Preservation Officer; responsibilities; qualifications**

The head of each Federal agency shall, unless exempted under section 470v of this title, designate a qualified official to be known as the agency's "preservation officer" who shall be responsible for coordinating that agency's activities under this subchapter. Each Preservation Officer may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 470a(h) of this title.

**(d) Agency programs and projects**

Consistent with the agency's missions and mandates, all Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this subchapter and, give consideration to programs and projects which will further the purposes of this subchapter.

**(e) Review of plans of transferees of surplus federally owned historic properties**

The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties not later than ninety days after his receipt of such plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.

**(f) Planning and actions to minimize harm to National Historic Landmarks**

Prior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.

**(g) Costs of preservation as eligible project costs**

Each Federal agency may include the costs of preservation activities of such agency under this subchapter as eligible project costs in all undertakings of such agency or assisted by such agency. The eligible project costs may also include amounts paid by a

Federal agency to any State to be used in carrying out such preservation responsibilities of the Federal agency under this subchapter, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit.

**(h) Annual preservation awards program**

The Secretary shall establish an annual preservation awards program under which he may make monetary awards in amounts of not to exceed \$1,000 and provide citations for special achievement to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the President of the United States to any citizen of the United States recommended for such award by the Secretary.

**(i) Environmental impact statement**

Nothing in this subchapter shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], and nothing in this subchapter shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act.

**(j) Waiver of provisions in event of natural disaster or imminent threat to national security**

The Secretary shall promulgate regulations under which the requirements of this section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security.

**(k) Assistance for adversely affected historic property**

Each Federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of section 470f of this title, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.

**(l) Documentation of decisions respecting undertakings**

With respect to any undertaking subject to section 470f of this title which adversely affects any property included in or eligible for inclusion in the National Register, and for which a Federal agency has not entered into an agreement pursuant to regulations issued

by the Council, the head of such agency shall document any decision made pursuant to section 470f of this title. The head of such agency may not delegate his or her responsibilities pursuant to such section. Where a section 106 [16 U.S.C. 470f] memorandum of agreement has been executed with respect to an undertaking, such memorandum shall govern the undertaking and all of its parts.

(Pub. L. 89–665, title I, §110, as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2996; amended Pub. L. 102–575, title XL, §§4006(b), 4012, Oct. 30, 1992, 106 Stat. 4757, 4760; Pub. L. 106–208, §§4, 5(a)(8), May 26, 2000, 114 Stat. 318, 319; Pub. L. 108–352, §13, Oct. 21, 2004, 118 Stat. 1397.)

### References in Text

Executive Order No. 13006, referred to in subsec. (a)(1), is set out as a note under section 3306 of Title 40, Public Buildings, Property, and Works.

The National Environmental Policy Act of 1969, referred to in subsec. (i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

### Amendments

**2004**—Subsec. (l). Pub. L. 108–352 amended directory language of Pub. L. 106–208, §5(a)(8). See 2000 Amendment note below.

**2000**—Subsec. (a)(1). Pub. L. 106–208, §4, substituted “agency, in accordance with Executive Order No. 13006, issued May 21, 1996 (61 Fed. Reg. 26071).” for “agency.” in second sentence.

Subsec. (l). Pub. L. 106–208, §5(a)(8), as amended by Pub. L. 108–352, substituted “pursuant to regulations issued by the Council” for “with the Council”.

**1992**—Subsec. (a)(1). Pub. L. 102–575, §4012(1), substituted “section 470a(g)” for “section 470a(f)”.

Subsec. (a)(2). Pub. L. 102–575, §4012(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “With the advice of the Secretary and in cooperation with the State historic preservation officer for the State involved, each Federal agency shall establish a program to locate, inventory, and nominate to the Secretary all properties under the agency's ownership or control by the agency, that appear to qualify for inclusion on the National Register in accordance with the regulations promulgated under section 470a(a)(2)(A) of this title. Each Federal agency

shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.”

Subsec. (c). Pub. L. 102–575, §4006(b), substituted “section 470a(h)” for “section 470a(g)”.

Subsecs. (k), (l). Pub. L. 102–575, §4012(3), added subsecs. (k) and (l).

**Ex. Ord. No. 13287. Preserve America**

Ex. Ord. No. 13287, Mar. 3, 2003, 68 F.R. 10635, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Historic Preservation Act (16 U.S.C. 470 et seq.) (NHPA) and the National Environmental Policy Act [of 1969] (42 U.S.C. 4321 et seq.), it is hereby ordered:

Section 1. Statement of Policy. It is the policy of the Federal Government to provide leadership in preserving America's heritage by actively advancing the protection, enhancement, and contemporary use of the historic properties owned by the Federal Government, and by promoting intergovernmental cooperation and partnerships for the preservation and use of historic properties. The Federal Government shall recognize and manage the historic properties in its ownership as assets that can support department and agency missions while contributing to the vitality and economic well-being of the Nation's communities and fostering a broader appreciation for the development of the United States and its underlying values. Where consistent with executive branch department and agency missions, governing law, applicable preservation standards, and where appropriate, executive branch departments and agencies (“agency” or “agencies”) shall advance this policy through the protection and continued use of the historic properties owned by the Federal Government, and by pursuing partnerships with State and local governments, Indian tribes, and the private sector to promote the preservation of the unique cultural heritage of communities and of the Nation and to realize the economic benefit that these properties can provide. Agencies shall maximize efforts to integrate the policies, procedures, and practices of the NHPA and this order into their program activities in order to efficiently and effectively advance historic preservation objectives in the pursuit of their missions.

Sec. 2. Building Preservation Partnerships. When carrying out its mission activities, each agency, where consistent with its mission and governing authorities, and where appropriate, shall seek partnerships with State and local governments, Indian tribes, and the private sector to promote local economic development and vitality through the use of historic properties in a manner that contributes to the long-term preservation and productive use of those properties. Each agency shall examine its policies, procedures,

and capabilities to ensure that its actions encourage, support, and foster public-private initiatives and investment in the use, reuse, and rehabilitation of historic properties, to the extent such support is not inconsistent with other provisions of law, the Secretary of the Interior's Standards for Archeology and Historic Preservation, and essential national department and agency mission requirements.

Sec. 3. Improving Federal Agency Planning and Accountability. (a) Accurate information on the state of Federally owned historic properties is essential to achieving the goals of this order and to promoting community economic development through local partnerships. Each agency with real property management responsibilities shall prepare an assessment of the current status of its inventory of historic properties required by section 110(a)(2) of the NHPA (16 U.S.C. 470h-2(a)(2)), the general condition and management needs of such properties, and the steps underway or planned to meet those management needs. The assessment shall also include an evaluation of the suitability of the agency's types of historic properties to contribute to community economic development initiatives, including heritage tourism, taking into account agency mission needs, public access considerations, and the long-term preservation of the historic properties. No later than September 30, 2004, each covered agency shall complete a report of the assessment and make it available to the Chairman of the Advisory Council on Historic Preservation (Council) and the Secretary of the Interior (Secretary).

(b) No later than September 30, 2004, each agency with real property management responsibilities shall review its regulations, management policies, and operating procedures for compliance with sections 110 and 111 of the NHPA (16 U.S.C. 470h-2 & 470-3) and make the results of its review available to the Council and the Secretary. If the agency determines that its regulations, management policies, and operating procedures are not in compliance with those authorities, the agency shall make amendments or revisions to bring them into compliance.

(c) Each agency with real property management responsibilities shall, by September 30, 2005, and every third year thereafter, prepare a report on its progress in identifying, protecting, and using historic properties in its ownership and make the report available to the Council and the Secretary. The Council shall incorporate this data into a report on the state of the Federal Government's historic properties and their contribution to local economic development and submit this report to the President by February 15, 2006, and every third year thereafter.

(d) Agencies may use existing information gathering and reporting systems to fulfill the assessment and reporting requirements of subsections 3(a)-(c) of this order. To assist agencies, the Council, in consultation with the Secretary, shall, by September 30, 2003, prepare advisory guidelines for agencies to use at their discretion.

(e) No later than June 30, 2003, the head of each agency shall designate a senior policy level official to have policy oversight responsibility for the agency's historic preservation

program and notify the Council and the Secretary of the designation. This senior official shall be an assistant secretary, deputy assistant secretary, or the equivalent, as appropriate to the agency organization. This official, or a subordinate employee reporting directly to the official, shall serve as the agency's Federal Preservation Officer in accordance with section 110(c) of the NHPA. The senior official shall ensure that the Federal Preservation Officer is qualified consistent with guidelines established by the Secretary for that position and has access to adequate expertise and support to carry out the duties of the position.

Sec. 4. Improving Federal Stewardship of Historic Properties. (a) Each agency shall ensure that the management of historic properties in its ownership is conducted in a manner that promotes the long-term preservation and use of those properties as Federal assets and, where consistent with agency missions, governing law, and the nature of the properties, contributes to the local community and its economy.

(b) Where consistent with agency missions and the Secretary of the Interior's Standards for Archeology and Historic Preservation, and where appropriate, agencies shall cooperate with communities to increase opportunities for public benefit from, and access to, Federally owned historic properties.

(c) The Council is directed to use its existing authority to encourage and accept donations of money, equipment, and other resources from public and private parties to assist other agencies in the preservation of historic properties in Federal ownership to fulfill the goals of the NHPA and this order.

(d) The National Park Service, working with the Council and in consultation with other agencies, shall make available existing materials and information for education, training, and awareness of historic property stewardship to ensure that all Federal personnel have access to information and can develop the skills necessary to continue the productive use of Federally owned historic properties while meeting their stewardship responsibilities.

(e) The Council, in consultation with the National Park Service and other agencies, shall encourage and recognize exceptional achievement by such agencies in meeting the goals of the NHPA and this order. By March 31, 2004, the Council shall submit to the President and the heads of agencies recommendations to further stimulate initiative, creativity, and efficiency in the Federal stewardship of historic properties.

Sec. 5. Promoting Preservation Through Heritage Tourism.

(a) To the extent permitted by law and within existing resources, the Secretary of Commerce, working with the Council and other agencies, shall assist States, Indian tribes, and local communities in promoting the use of historic properties for heritage tourism and related economic development in a manner that contributes to the long-term preservation and productive use of those properties. Such assistance shall include efforts

to strengthen and improve heritage tourism activities throughout the country as they relate to Federally owned historic properties and significant natural assets on Federal lands.

(b) Where consistent with agency missions and governing law, and where appropriate, agencies shall use historic properties in their ownership in conjunction with State, tribal, and local tourism programs to foster viable economic partnerships, including, but not limited to, cooperation and coordination with tourism officials and others with interests in the properties.

#### Sec. 6. National and Homeland Security Considerations.

Nothing in this order shall be construed to require any agency to take any action or disclose any information that would conflict with or compromise national and homeland security goals, policies, programs, or activities.

Sec. 7. Definitions. For the purposes of this order, the term “historic property” means any prehistoric or historic district, site, building, structure, and object included on or eligible for inclusion on the National Register of Historic Places in accordance with section 301(5) of the NHPA (16 U.S.C. 470w(5)). The term “heritage tourism” means the business and practice of attracting and accommodating visitors to a place or area based especially on the unique or special aspects of that locale's history, landscape (including trail systems), and culture. The terms “Federally owned” and “in Federal ownership,” and similar terms, as used in this order, do not include properties acquired by agencies as a result of foreclosure or similar actions and that are held for a period of less than 5 years.

Sec. 8. Judicial Review. This order is intended only to improve the internal management of the Federal Government and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

George W. Bush.

### **§470h–3. Lease or exchange of historic property**

#### **(a) Authorization; consultation with Council**

Notwithstanding any other provision of law, any Federal agency after consultation with the Council, shall, to the extent practicable, establish and implement alternatives for historic properties, including adaptive use, that are not needed for current or projected agency purposes, and may lease an historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic



property, if the agency head determines that the lease or exchange will adequately insure the preservation of the historic property.

**(b) Proceeds of lease for administration, etc., of property; deposit of surplus proceeds into Treasury**

The proceeds of any lease under subsection (a) of this section may, notwithstanding any other provision of law, be retained by the agency entering into such lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to such property or other properties which are on the National Register which are owned by, or are under the jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which such proceeds were received.

**(c) Contracts for management of historic property**

The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any such contract shall contain such terms and conditions as the head of such agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of the historic property.

(Pub. L. 89–665, title I, §111, as added Pub. L. 96–515, title II, §207, Dec. 12, 1980, 94 Stat. 2997; amended Pub. L. 102–575, title XL, §4013, Oct. 30, 1992, 106 Stat. 4761.)

**Amendments**

**1992**—Subsec. (a). Pub. L. 102–575 substituted “after consultation with the Council, shall, to the extent practicable, establish and implement alternatives for historic properties, including adaptive use, that are not needed for current or projected agency purposes, and may” for “may, after consultation with the Advisory Council on Historic Preservation.”

**Historic Lease Process Simplification**

Pub. L. 105–391, title VIII, §802(b), Nov. 13, 1998, 112 Stat. 3523, provided that: “The Secretary is directed to simplify, to the maximum extent possible, the leasing process for historic properties with the goal of leasing available structures in a timely manner.”

**§470h–4. Professional standards**

**(a) In general**

Each Federal agency that is responsible for the protection of historic resources, including archaeological resources pursuant to this subchapter or any other law shall ensure each of the following—

(1)(A) All actions taken by employees or contractors of such agency shall meet professional standards under regulations developed by the Secretary in consultation with the Council, other affected agencies, and the appropriate professional societies of the disciplines involved, specifically archaeology, architecture, conservation, history, landscape architecture, and planning.

(B) Agency personnel or contractors responsible for historic resources shall meet qualification standards established by the Office of Personnel Management in consultation with the Secretary and appropriate professional societies of the disciplines involved. The Office of Personnel Management shall revise qualification standards within 2 years after October 30, 1992, for the disciplines involved, specifically archaeology, architecture, conservation, curation, history, landscape architecture, and planning. Such standards shall consider the particular skills and expertise needed for the preservation of historic resources and shall be equivalent requirements for the disciplines involved.

(2) Records and other data, including data produced by historical research and archaeological surveys and excavations are permanently maintained in appropriate data bases and made available to potential users pursuant to such regulations as the Secretary shall promulgate.

**(b) Guidelines**

In order to promote the preservation of historic resources on properties eligible for listing in the National Register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this subchapter include plans to—

(1) provide information to the owners of properties containing historic (including architectural, curatorial, and archaeological) resources with demonstrated or likely research significance, about the need for protection of such resources, and the available means of protection;

(2) encourage owners to preserve such resources intact and in place and offer the owners of such resources information on the tax and grant assistance available for the donation of the resources or of a preservation easement of the resources;

(3) encourage the protection of Native American cultural items (within the meaning of section 3001(3) and (9) of title 25) and of properties of religious or cultural importance to Indian tribes, Native Hawaiians, or other Native American groups; and

(4) encourage owners who are undertaking archaeological excavations to—

(A) conduct excavations and analyses that meet standards for federally-sponsored excavations established by the Secretary;

(B) donate or lend artifacts of research significance to an appropriate research institution;

(C) allow access to artifacts for research purposes; and

(D) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under section 3002(a)(2)(B) or (C) of title 25, given<sup>1</sup> notice to and consult with such Indian tribe or Native Hawaiian organization.

(Pub. L. 89–665, title I, §112, as added Pub. L. 102–575, title XL, §4014, Oct. 30, 1992, 106 Stat. 4761; amended Pub. L. 106–208, §5(a)(9), May 26, 2000, 114 Stat. 319.)

### **Codification**

October 30, 1992, referred to in subsec. (a)(1)(B), was in the original “the date of enactment of this Act” which was translated as meaning the date of enactment of Pub. L. 102–575 which enacted this section, to reflect the probable intent of Congress.

### **Amendments**

**2000**—Subsec. (b)(3). Pub. L. 106–208 inserted closing parenthesis after “title 25”.

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

## **§470h–5. Interstate and international traffic in antiquities**

### **(a) Study**

In order to help control illegal interstate and international traffic in antiquities, including archaeological, curatorial, and architectural objects, and historical documents of all kinds, the Secretary shall study and report on the suitability and feasibility of alternatives for controlling illegal interstate and international traffic in antiquities.

### **(b) Consultation**

In conducting the study described in subsection (a) of this section the Secretary shall consult with the Council and other Federal agencies that conduct, cause to be conducted, or permit archaeological surveys or excavations or that have responsibilities for other

kinds of antiquities and with State Historic Preservation Officers, archaeological, architectural, historical, conservation, and curatorial organizations, Indian tribes, Native Hawaiian organizations, and other Native American organizations, international organizations and other interested persons.

**(c) Report**

Not later than 18 months after October 30, 1992, the Secretary shall submit to Congress a report detailing the Secretary's findings and recommendations from the study described in subsection (a) of this section.

**(d) Authorization**

There are authorized to be appropriated not more than \$500,000 for the study described in subsection (a) of this section, such sums to remain available until expended.

(Pub. L. 89–665, title I, §113, as added Pub. L. 102–575, title XL, §4015, Oct. 30, 1992, 106 Stat. 4762.)

**Part B—Advisory Council on Historic Preservation**

**§470i. Advisory Council on Historic Preservation**

**(a) Establishment; membership; Chairman**

There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation which shall be composed of the following members:

- (1) a Chairman appointed by the President selected from the general public;
- (2) the Secretary of the Interior;
- (3) the Architect of the Capitol;
- (4) the Secretary of Agriculture and the heads of seven other agencies of the United States (other than the Department of the Interior) the activities of which affect historic preservation, designated by the President;
- (5) one Governor appointed by the President;
- (6) one mayor appointed by the President;
- (7) the President of the National Conference of State Historic Preservation Officers;

(8) the Chairman of the National Trust for Historic Preservation;

(9) four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archeology, and other appropriate disciplines;

(10) three at-large members from the general public, appointed by the President; and

(11) one member of an Indian tribe or Native Hawaiian organization who represents the interests of the tribe or organization of which he or she is a member, appointed by the President.

**(b) Designation of substitutes**

Each member of the Council specified in paragraphs (2) through (8) other than (6) of subsection (a) of this section may designate another officer of his department, agency, or organization to serve on the Council in his stead, except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated.

**(c) Term of office**

Each member of the Council appointed under paragraph (1), and under paragraphs (9) through (11) of subsection (a) of this section shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member may not serve more than two terms. An appointed member whose term has expired shall serve until that member's successor has been appointed.

**(d) Vacancies; term of office of members already appointed**

A vacancy in the Council shall not affect its powers, but shall be filled, not later than sixty days after such vacancy commences, in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on Historic Preservation appointed by the President under this subchapter as in effect on the day before December 12, 1980, shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than one hundred and eighty days after December 12, 1980.

**(e) Designation of Vice Chairman**

The President shall designate a Vice Chairman, from the members appointed under paragraph (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant.

**(f) Quorum**

12 members of the Council shall constitute a quorum.

(Pub. L. 89–665, title II, §201, Oct. 15, 1966, 80 Stat. 917; Pub. L. 91–243, §1(b)–(e), May 9, 1970, 84 Stat. 204; Pub. L. 93–54, §1(c), July 1, 1973, 87 Stat. 139; Pub. L. 94–422, title II, §201(5), Sept. 28, 1976, 90 Stat. 1320; Pub. L. 96–515, title III, §301(a)–(f), Dec. 12, 1980, 94 Stat. 2998, 2999; Pub. L. 102–575, title XL, §§4016, 4019(b), Oct. 30, 1992, 106 Stat. 4763, 4765; Pub. L. 104–333, div. I, title V, §509(c)(1), (2), Nov. 12, 1996, 110 Stat. 4157; Pub. L. 109–453, §1(d), Dec. 22, 2006, 120 Stat. 3367.)

**Amendments**

**2006**—Subsec. (a)(4). Pub. L. 109–453, §1(d)(1), substituted “seven” for “four”.

Subsec. (b). Pub. L. 109–453, §1(d)(2), struck out “(5) and” before “(6)”.

Subsec. (f). Pub. L. 109–453, §1(d)(3), substituted “12” for “Nine”.

**1996**—Subsec. (a)(4). Pub. L. 104–333, §509(c)(1), substituted “designated by the President” for “appointed by the President”.

Subsec. (c). Pub. L. 104–333, §509(c)(2), which directed substitution of “through (11)” for “and 10”, was executed by making the substitution for “and (10)” to reflect the probable intent of Congress.

**1992**—Subsec. (a). Pub. L. 102–575, §4019(b), which directed amendment of subsec. (a) by striking “(hereafter referred to as the ‘Council’)”, was executed by striking “(hereinafter referred to as the ‘Council’)” after “Historic Preservation” in introductory provisions to reflect the probable intent of Congress.

Subsec. (a)(11). Pub. L. 102–575, §4016, added par. (11).

**1980**—Subsec. (a). Pub. L. 96–515, §301(a), revised the composition of the Council by reducing the membership from twenty-nine to eighteen members, provided flexibility for Federal agencies who will be represented, ensured that appropriate expertise will be available, and provided representation for State and local governments.

Subsec. (b). Pub. L. 96–515, §301(b), substituted “(2) through (8) (other than (5) and (6))” and “(1) through (17)” and inserted “, except that, in the case of paragraphs (2) and

(4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated” following “in his stead”.

Subsec. (c). Pub. L. 96–515, §301(c), substituted provision that the Chairman appointed by the President from the general public, each of the four experts appointed by the President, and each of the three at-large members appointed by the President from the general public serve a term of four years from the expiration of his predecessor's term, except that the members first appointed serve terms of one to four years in such a manner as to insure that the terms of not more than two of them expire in any one year, the one Governor and the one mayor appointed by the President serve for the term of their elected office but not in excess of four years, an appointed member not serve for more than two terms, and an appointed member whose term expired serve until his successor has been appointed for provision that each of the twelve members appointed by the President from outside the Federal Government serve for a term of five years from expiration of his predecessor's term, except that the members first appointed serve for terms of one to five years in such a manner as to insure that the terms of not less than one nor more than two of them expire in any one year.

Subsec. (d). Pub. L. 96–515, §301(d), inserted provision that a vacancy be filled not later than sixty days after it commences, members of the Council appointed by the President before Dec. 12, 1980 remain in office until all members of the Council, as specified by this section, have been appointed, and members first appointed be appointed not later than 180 days after Dec. 12, 1980.

Subsec. (e). Pub. L. 96–515, §301(e), substituted provision authorizing the President to designate a Vice Chairman from among specified members of the Council for provision authorizing the President to designate a Chairman and Vice Chairman.

Subsec. (f). Pub. L. 96–515, §301(f), substituted “Nine” for “Fifteen”.

**1976**—Subsec. (a)(9) to (18). Pub. L. 94–422 added pars. (9) to (14) and (17), and redesignated former pars. (9), (10), and (11) as (15), (16), and (18), respectively, and in par. (18), as so redesignated, substituted “twelve” for “ten”.

Subsec. (b). Pub. L. 94–422 substituted “(17)” for “(10)”.

Subsec. (c). Pub. L. 94–422 substituted “(18)” for “(11)”.

Subsec. (d). Pub. L. 94–422 reenacted subsec. (d) without change.

Subsec. (e). Pub. L. 94–422 enlarged Presidential authority to include designation of Vice Chairman, who shall act in place of Chairman during the absence or disability of Chairman or when the office is vacant.

Subsec. (f). Pub. L. 94-422 substituted “Fifteen” for “Eleven”.

Subsec. (g). Pub. L. 94-422 struck out subsec. (g) which provided that the Council shall continue in existence until Dec. 31, 1985.

**1973**—Subsec. (g). Pub. L. 93-54 added subsec. (g).

**1970**—Subsec. (a). Pub. L. 91-243, §1(b), enlarged the Council from seventeen to twenty members, added pars. (7) to (9), and redesignated former pars. (7) and (8) as (10) and (11), respectively.

Subsec. (b). Pub. L. 91-243, §1(c), substituted “(10)” for “(6)”.

Subsec. (c). Pub. L. 91-243, §1(d), substituted “(11)” for “(8)”.

Subsec. (f). Pub. L. 91-243, §1(e), substituted “Eleven” for “Eight”.

**§470j. Functions of Council; annual report to President and Congress; recommendations**

**(a) Duties**

The Council shall—

- (1) advise the President and the Congress on matters relating to historic preservation; recommend measures to coordinate activities of Federal, State, and local agencies and private institutions and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities;
- (2) encourage, in cooperation with the National Trust for Historic Preservation and appropriate private agencies, public interest and participation in historic preservation;
- (3) recommend the conduct of studies in such areas as the adequacy of legislative and administrative statutes and regulations pertaining to historic preservation activities of State and local governments and the effects of tax policies at all levels of government on historic preservation;
- (4) advise as to guidelines for the assistance of State and local governments in drafting legislation relating to historic preservation;
- (5) encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation;



(6) review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this subchapter; and

(7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.

**(b) Annual report**

The Council shall submit annually a comprehensive report of its activities and the results of its studies to the President and the Congress and shall from time to time submit such additional and special reports as it deems advisable. Each report shall propose such legislative enactments and other actions as, in the judgment of the Council, are necessary and appropriate to carry out its recommendations and shall provide the Council's assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this subchapter.

(Pub. L. 89-665, title II, §202, Oct. 15, 1966, 80 Stat. 918; Pub. L. 96-515, title III, §301(g), Dec. 12, 1980, 94 Stat. 2999.)

**Amendments**

**1980**—Subsec. (a)(6), (7). Pub. L. 96-515, §301(g)(1), added pars. (6) and (7).

Subsec. (b). Pub. L. 96-515, §301(g)(2), inserted provision requiring in the Council's report an assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector.

**Termination of Reporting Requirements**

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to submittal to Congress, annually, of a comprehensive report of activities and results of studies, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 154 of House Document No. 103-7.

**Relationship of Federal Tax Laws to Historic Preservation; Report to President and Congress**

Section 503 of Pub. L. 96–515 directed the Advisory Council on Historic Preservation to submit a report, within one year of Dec. 12, 1980, to the President and the Congress on Federal tax laws relating to historic preservation or affecting in any manner historic preservation.

**§470k. Cooperation between Council and instrumentalities of executive branch of Federal Government**

The Council is authorized to secure directly from any department, bureau, agency, board, commission, office, independent establishment or instrumentality of the executive branch of the Federal Government information, suggestions, estimates, and statistics for the purpose of this part; and each such department, bureau, agency, board, commission, office, independent establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics to the extent permitted by law and within available funds.

(Pub. L. 89–665, title II, §203, Oct. 15, 1966, 80 Stat. 918.)

**§470l. Compensation of members of Council**

The members of the Council specified in paragraphs (2), (3), and (4) of section 470i(a) of this title shall serve without additional compensation. The other members of the Council shall receive \$100 per diem when engaged in the performance of the duties of the Council. All members of the Council shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Council.

(Pub. L. 89–665, title II, §204, Oct. 15, 1966, 80 Stat. 918; Pub. L. 91–243, §1(f), May 9, 1970, 84 Stat. 204; Pub. L. 94–422, title II, §201(6), Sept. 28, 1976, 90 Stat. 1321; Pub. L. 96–515, title III, §301(h), Dec. 12, 1980, 94 Stat. 2999.)

**Amendments**

**1980**—Pub. L. 96–515 substituted “paragraphs (2), (3), and (4)” for “paragraphs (1) and (17)” and “other members of the Council” for “members of the Council under paragraph (18) of section 470i(a) of this title”.

**1976**—Pub. L. 94–422 substituted “(17)” for “(10)” and “(18)” for “(11)”.

**1970**—Pub. L. 91–243 substituted “(10)” for “(7)” and “(11)” for “(8)”.

**§470m. Administration**

**(a) Executive Director of Council; appointment; functions and duties**

There shall be an Executive Director of the Council who shall be appointed in the competitive service by the Chairman with the concurrence of the Council. The Executive Director shall report directly to the Council and perform such functions and duties as the Council may prescribe.

**(b) General Counsel; appointment; functions and duties**

The Council shall have a General Counsel, who shall be appointed by the Executive Director. The General Counsel shall report directly to the Executive Director and serve as the Council's legal advisor. The Executive Director shall appoint such other attorneys as may be necessary to assist the General Counsel, represent the Council in courts of law whenever appropriate, including enforcement of agreements with Federal agencies to which the Council is a party, assist the Department of Justice in handling litigation concerning the Council in courts of law, and perform such other legal duties and functions as the Executive Director and the Council may direct.

**(c) Appointment and compensation of officers and employees**

The Executive Director of the Council may appoint and fix the compensation of such officers and employees in the competitive service as are necessary to perform the functions of the Council at rates not to exceed that now or hereafter prescribed for the highest rate for grade 15 of the General Schedule under section 5332 of title 5: Provided, however, That the Executive Director, with the concurrence of the Chairman, may appoint and fix the compensation of not to exceed five employees in the competitive service at rates not to exceed that now or hereafter prescribed for the highest rate of grade 17 of the General Schedule under section 5332 of title 5.

**(d) Appointment and compensation of additional personnel**

The Executive Director shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5.

**(e) Expert and consultant services; procurement**

The Executive Director of the Council is authorized to procure expert and consultant services in accordance with the provisions of section 3109 of title 5.

**(f) Financial and administrative services**

Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Department of the Interior or, at the discretion of the Council, such other agency or

private entity that reaches an agreement with the Council, for which payments shall be made in advance or by reimbursement from funds of the Council in such amounts as may be agreed upon by the Chairman of the Council and the head of the agency or, in the case of a private entity, the authorized representative of the private entity that will provide the services. When a Federal agency affords such services, the regulations of that agency for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 5514(b)) shall apply to the collection of erroneous payments made to or on behalf of a Council employee and regulations of that agency for the administrative control of funds (31 U.S.C. 1513(d), 1514) shall apply to appropriations of the Council. The Council shall not be required to prescribe such regulations.

**(g) Use of funds, personnel, facilities, and services of Federal agencies**

Any Federal agency may provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the agency, with such funds, personnel, facilities and services under its jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. Any funds provided to the Council pursuant to this subsection must be expended by the end of the fiscal year following the fiscal year in which the funds are received by the Council. To the extent of available appropriations, the Council may obtain by purchase, rental, donation, or otherwise, such additional property<sup>1</sup> facilities, and services as may be needed to carry out its duties and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this subchapter.

(Pub. L. 89–665, title II, §205, Oct. 15, 1966, 80 Stat. 919; Pub. L. 91–243, §1(g), May 9, 1970, 84 Stat. 204; Pub. L. 94–422, title II, §201(7), Sept. 28, 1976, 90 Stat. 1321; Pub. L. 96–515, title III, §301(i), (j), Dec. 12, 1980, 94 Stat. 2999; Pub. L. 104–333, div. I, title V, §509(c)(4), Nov. 12, 1996, 110 Stat. 4158; Pub. L. 106–176, title I, §109, Mar. 10, 2000, 114 Stat. 26; Pub. L. 109–453, §1(e), Dec. 22, 2006, 120 Stat. 3367.)

**Codification**

In subsec. (d), “chapter 51 and subchapter III of chapter 53 of title 5” was substituted for “the Classification Act of 1949” on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

**Amendments**

**2006**—Subsec. (f). Pub. L. 109–453 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall

be provided the Council by the Department of the Interior, for which payments shall be made in advance, or by reimbursement, from funds of the Council in such amounts as may be agreed upon by the Chairman of the Council and the Secretary of the Interior: Provided, That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 46e) shall apply to the collection of erroneous payments made to or on behalf of a Council employee, and regulations of said Secretary for the administrative control of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Council: And provided further, That the Council shall not be required to prescribe such regulations.”

**2000**—Subsec. (g). Pub. L. 106–176 substituted “for that purpose.” for “for the purpose.”.

**1996**—Subsec. (g). Pub. L. 104–333 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “The members of the Council specified in paragraphs (2) through (4) of section 470i(a) of this title shall provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the members, with such funds, personnel, facilities, and services under their jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. To the extent of available appropriations, the Council may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this subchapter.”

**1980**—Subsec. (b). Pub. L. 96–515, §301(i), inserted “, including enforcement of agreements with Federal agencies to which the Council is a party” after “wherever appropriate”.

Subsec. (g). Pub. L. 96–515, §301(j), substituted “paragraphs (2) through (4)” for “paragraphs (1) through (16)” and inserted provision authorizing the Council to accept donations of moneys and the Executive Director, in his discretion, to accept, hold, use, expend, and administer such moneys.

**1976**—Subsec. (a). Pub. L. 94–422 substituted provisions authorizing appointment of the Executive Director by the Chairman and that the Executive Director shall report to the Council who shall prescribe his functions and duties for provisions designating the Director of the National Park Service or his designee as the Executive Director of the Council and incorporated provisions relating to furnishing of financial and administrative services by the Department of the Interior in subsec. (f).

Subsec. (b). Pub. L. 94–422 substituted provisions authorizing appointment of a General Counsel by the Executive Director and such other attorneys as may be necessary to assist

General Counsel for provisions authorizing Council to appoint and fix compensation of additional personnel as may be necessary to carry out its duties.

Subsec. (c). Pub. L. 94-422 substituted provisions authorizing Executive Director to appoint and fix the compensation of officers and employees for provisions authorizing Council to procure temporary and intermittent services to the same extent as is authorized by section 55a of title 5, but at rates not to exceed \$50 per diem for individuals.

Subsec. (d). Pub. L. 94-422 substituted provisions authorizing Executive Director to appoint and fix compensation of additional personnel for provisions relating to members of Council furnishing, on a reimbursable basis, such facilities and services under their jurisdiction and control as may be needed by the Council.

Subsec. (e). Pub. L. 94-422 added subsec. (e).

Subsec. (f). Pub. L. 94-422 incorporated provisions of former subsec. (a).

Subsec. (g). Pub. L. 94-422 added subsec. (g).

**1970**—Subsec. (d). Pub. L. 91-243 substituted “(9)” for “(6)”.

### **References in Other Laws to GS-16, 17, or 18 Pay Rates**

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

<sup>1</sup> So in original. Probably should be followed by a comma.

## **§470n. International Centre for Study of Preservation and Restoration of Cultural Property**

### **(a) Authorization of participation**

The participation of the United States as a member in the International Centre for the Study of the Preservation and Restoration of Cultural Property is hereby authorized.

### **(b) Official delegation**

The Council shall recommend to the Secretary of State, after consultation with the Smithsonian Institution and other public and private organizations concerned with the technical problems of preservation, the members of the official delegation which will

participate in the activities of the Centre on behalf of the United States. The Secretary of State shall appoint the members of the official delegation from the persons recommended to him by the Council.

**(c) Authorization of appropriations and payments**

For the purposes of this section there is authorized to be appropriated an amount equal to the assessment for United States membership in the Centre for fiscal years 1979, 1980, 1981, and 1982: Provided, That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization. Authorization for payment of such assessments shall begin in fiscal year 1981, but shall include earlier costs.

(Pub. L. 89–665, title II, §206, as added Pub. L. 91–243, §2, May 9, 1970, 84 Stat. 204; amended Pub. L. 93–54, §1(b), July 1, 1973, 87 Stat. 139; Pub. L. 94–422, title II, §201(8), Sept. 28, 1976, 90 Stat. 1322; Pub. L. 96–199, title I, §114, Mar. 5, 1980, 94 Stat. 71; Pub. L. 106–208, §5(b), May 26, 2000, 114 Stat. 319.)

**Amendments**

**2000**—Subsec. (c). Pub. L. 106–208, made technical correction to directory language of Pub. L. 96–199. See 1980 Amendment note below.

**1980**—Subsec. (c). Pub. L. 96–199, as amended by Pub. L. 106–208, substituted “there is authorized to be appropriated an amount equal to the assessment for United States membership in the Centre for fiscal years 1979, 1980, 1981, and 1982” for “there are authorized to be appropriated not more than \$175,000 per year for fiscal years 1977, 1978, and 1979” in the existing provisions and inserted provision that the authorization for the payment of assessments should begin in fiscal year 1981 but should include earlier costs.

**1976**—Subsec. (c). Pub. L. 94–422 substituted provisions authorizing appropriations of not more than \$175,000 per year for fiscal years 1977, 1978, and 1979 for provisions authorizing appropriations of not more than \$100,000 in fiscal year 1974, \$100,000 in fiscal year 1975, and \$125,000 in fiscal year 1976 and struck out “effective January 1, 1974,” after “Provided, That”.

**1973**—Subsec. (c). Pub. L. 93–54 added subsec. (c) and repealed former subsec. (c) authorizing appropriation of \$100,000 annually for fiscal years 1971 through 1973.

**§470o. Transfer of personnel, property, etc., by Department of the Interior to Council; time limit**

So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, programed, or available or to be made available by the Department of the Interior in connection with the functions of the Council, as the Director of the Office of Management and Budget shall determine, shall be transferred from the Department to the Council within 60 days of the effective date of this Act.

(Pub. L. 89–665, title II, §207, as added Pub. L. 94–422, title II, §201(9), Sept. 28, 1976, 90 Stat. 1322.)

### **References in Text**

The effective date of this Act, referred to in text, probably means the effective date of Pub. L. 94–422, which was approved on Sept. 28, 1976.

### **§470p. Rights, benefits, and privileges of transferred employees**

Any employee in the competitive service of the United States transferred to the Council under the provisions of this section shall retain all the rights, benefits, and privileges pertaining thereto held prior to such transfer.

(Pub. L. 89–665, title II, §208, as added Pub. L. 94–422, title II, §201(9), Sept. 28, 1976, 90 Stat. 1322.)

### **§470q. Operations of Council; exemption**

The Council is exempt from the provisions of the Federal Advisory Committee Act (86 Stat. 770), and the provisions of subchapter II of chapter 5, and chapter 7, of title 5 shall govern the operations of the Council.

(Pub. L. 89–665, title II, §209, as added Pub. L. 94–422, title II, §201(9), Sept. 28, 1976, 90 Stat. 1322.)

### **References in Text**

The Federal Advisory Committee Act (86 Stat. 770), referred to in text, is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is classified to the Appendix of Title 5, Government Organization and Employees.

### **Codification**

“Subchapter II of chapter 5, and chapter 7 of title 5” substituted in text for “the Administrative Procedure Act (80 Stat. 381)” on authority of Pub. L. 89–554, §7(b),



Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

**§470r. Transmittal of legislative recommendations, or testimony, or comments, to any officer or agency of the United States prior to submission thereof to Congress; prohibition**

No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

(Pub. L. 89–665, title II, §210, as added Pub. L. 94–422, title II, §201(9), Sept. 28, 1976, 90 Stat. 1322; amended Pub. L. 96–515, title III, §301(k), Dec. 12, 1980, 94 Stat. 2999.)

**Amendments**

**1980**—Pub. L. 96–515 struck out provision requiring the Council, whenever it transmits any legislative recommendations, or testimony, or comments on legislation to the President or Office of Management and Budget, to concurrently transmit copies thereof to the House Committee on Interior and Insular Affairs and the Senate Committee on Interior and Insular Affairs.

**§470s. Rules and regulations; participation by local governments**

The Council is authorized to promulgate such rules and regulations as it deems necessary to govern the implementation of section 470f of this title in its entirety. The Council shall, by regulation, establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 470f of this title which affect such local governments.

(Pub. L. 89–665, title II, §211, as added Pub. L. 94–422, title II, §201(9), Sept. 28, 1976, 90 Stat. 1322; amended Pub. L. 96–515, title III, §301(l), Dec. 12, 1980, 94 Stat. 2999; Pub. L. 102–575, title XL, §4018, Oct. 30, 1992, 106 Stat. 4763.)

**Amendments**

**1992**—Pub. L. 102–575 inserted “in its entirety” before period at end of first sentence.

**1980**—Pub. L. 96–515 inserted provision authorizing the Council to establish procedures as necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 470f of this title which affect such local governments.

**§470t. Budget; authorization of appropriations**

**(a) Time of submission; related department; authorized appropriations**

The Council shall submit its budget annually as a related agency of the Department of the Interior. There are authorized to be appropriated such amounts as may be necessary to carry out this part.

**(b) Transmittal of copies to Congressional committees**

Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources.

(Pub. L. 89–665, title II, §212, as added Pub. L. 94–422, title II, §201(9), Sept. 28, 1976, 90 Stat. 1323; amended Pub. L. 95–625, title VI, §614, Nov. 10, 1978, 92 Stat. 3521; Pub. L. 96–205, title VI, §608(a)(3), Mar. 12, 1980, 94 Stat. 92; Pub. L. 96–244, §2, May 19, 1980, 94 Stat. 346; Pub. L. 96–515, title III, §302(b), Dec. 12, 1980, 94 Stat. 3000; Pub. L. 98–483, Oct. 17, 1984, 98 Stat. 2258; Pub. L. 101–70, Aug. 3, 1989, 103 Stat. 180; Pub. L. 102–575, title XL, §4017, Oct. 30, 1992, 106 Stat. 4763; Pub. L. 103–437, §6(d)(29), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104–333, div. I, title V, §509(a), Nov. 12, 1996, 110 Stat. 4157; Pub. L. 106–208, §3, May 26, 2000, 114 Stat. 318; Pub. L. 109–453, §1(f), Dec. 22, 2006, 120 Stat. 3368.)

**Amendments**

**2006**—Subsec. (a). Pub. L. 109–453, which directed amendment of subsec. (a) by substituting “such amounts as may be necessary to carry out this part” for “for purposes of this part not to exceed \$4,000,000 for each fiscal year 1997 through 2005”, was executed by making the substitution for “for the purposes of this part not to exceed \$4,000,000 in each fiscal year 1997 through 2005” to reflect the probable intent of Congress.

**2000**—Subsec. (a). Pub. L. 106–208 substituted “2005” for “2000”.

**1996**—Subsec. (a). Pub. L. 104–333 amended last sentence generally. Prior to amendment, last sentence read as follows: “There are authorized to be appropriated for

purposes of this part not to exceed \$5,000,000 for each of the fiscal years 1993 through 1996.”

**1994**—Subsec. (b). Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

**1992**—Subsec. (a). Pub. L. 102–575 substituted provision authorizing appropriations for purposes of this part of not to exceed \$5,000,000 for each of fiscal years 1993 through 1996 for provision authorizing appropriations of not to exceed \$2,500,000 in each fiscal year 1990 through 1994.

**1989**—Subsec. (a). Pub. L. 101–70 substituted provision authorizing appropriations of not to exceed \$2,500,000 in each fiscal year 1990 through 1994 for provision authorizing appropriations, to carry out provisions of this part, of not more than \$2,500,000 for each of the fiscal years 1985 through 1989.

**1984**—Subsec. (a). Pub. L. 98–483 substituted provision authorizing appropriations of not more than \$2,500,000 for each of the fiscal years 1985 through 1989 for provision authorizing appropriations of not more than \$1,500,000 to \$2,250,000 in increments of \$250,000 for fiscal years 1977 through 1980, and not more than \$2,500,000 for each of the fiscal years 1981 through 1983.

**1980**—Subsec. (a). Pub. L. 96–244 inserted “\$2,500,000 in the fiscal year 1981, \$2,500,000 in fiscal year 1982, and \$2,500,000 in fiscal year 1983” after “in fiscal year 1980”.

Subsec. (b). Pub. L. 96–515 substituted “Senate Committee on Energy and Natural Resources” for “Senate Committee on Interior and Insular Affairs”, which amendment is identical to the amendment by section 608(a)(3) of Pub. L. 96–205, thereby requiring no change in text.

Pub. L. 96–205 substituted “Energy and Natural Resources” for “Interior and Insular Affairs”.

**1978**—Subsec. (a). Pub. L. 95–625 authorized appropriation of \$2,250,000 in fiscal year 1980.

#### **§470u. Report by Secretary to Council**

To assist the Council in discharging its responsibilities under this subchapter, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

(Pub. L. 89–665, title II, §213, as added Pub. L. 96–515, title III, §302(a), Dec. 12, 1980, 94 Stat. 3000.)

**§470v. Exemption for Federal programs or undertakings; regulations**

The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this subchapter when such exemption is determined to be consistent with the purposes of this subchapter, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties.

(Pub. L. 89–665, title II, §214, as added Pub. L. 96–515, title III, §302(a), Dec. 12, 1980, 94 Stat. 3000.)

**§470v–1. Reimbursements from State and local agencies**

Subject to applicable conflict of interest laws, the Council may receive reimbursements from State and local agencies and others pursuant to agreements executed in furtherance of the purposes of this subchapter.

(Pub. L. 89–665, title II, §215, as added Pub. L. 104–333, div. I, title V, §509(c)(3), Nov. 12, 1996, 110 Stat. 4157.)

**§470v–2. Effectiveness of Federal grant and assistance programs**

**(a) Cooperative agreements**

The Council may enter into a cooperative agreement with any Federal agency that administers a grant or assistance program for the purpose of improving the effectiveness of the administration of such program in meeting the purposes and policies of this subchapter. Such cooperative agreements may include provisions that modify the selection criteria for a grant or assistance program to further the purposes of this subchapter or that allow the Council to participate in the selection of recipients, if such provisions are not inconsistent with the grant or assistance program's statutory authorization and purpose.

**(b) Review of grant and assistance programs**

The Council may—

(1) review the operation of any Federal grant or assistance program to evaluate the effectiveness of such program in meeting the purposes and policies of this subchapter;

(2) make recommendations to the head of any Federal agency that administers such program to further the consistency of the program with the purposes and policies of the subchapter and to improve its effectiveness in carrying out those purposes and policies; and

(3) make recommendations to the President and Congress regarding the effectiveness of Federal grant and assistance programs in meeting the purposes and policies of this subchapter, including recommendations with regard to appropriate funding levels.

(Pub. L. 89–665, title II, §216, as added Pub. L. 109–453, §1(g), Dec. 22, 2006, 120 Stat. 3368.)

## **Part C—General and Miscellaneous**

### **§470w. Definitions**

As used in this subchapter, the term—

(1) “Agency” means agency as such term is defined in section 551 of title 5.

(2) “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau.

(3) “Local government” means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.

(4) “Indian tribe” or “tribe” means an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 1602 of title 43, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(5) “Historic property” or “historic resource” means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource.

(6) “National Register” or “Register” means the National Register of Historic Places established under section 470a of this title.

(7) “Undertaking” means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including—

(A) those carried out by or on behalf of the agency;

(B) those carried out with Federal financial assistance;

(C) those requiring a Federal permit license, or approval; and

(D) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.

(8) “Preservation” or “historic preservation” includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities, or any combination of the foregoing activities.

(9) “Cultural park” means a definable area which is distinguished by historic resources and land related to such resources and which constitutes an interpretive, educational, and recreational resource for the public at large.

(10) “Historic conservation district” means an area which contains (A) historic properties, (B) buildings having similar or related architectural characteristics, (C) cultural cohesiveness, or (D) any combination of the foregoing.

(11) “Secretary” means the Secretary of the Interior acting through the Director of the National Park Service except where otherwise specified.

(12) “State historic preservation review board” means a board, council, commission, or other similar collegial body established as provided in section 470a(b)(1)(B) of this title—

(A) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law),

(B) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archaeology, architectural history, architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture, and

(C) which has the authority to—

(i) review National Register nominations and appeals from nominations;

(ii) review appropriate documentation submitted in conjunction with the Historic Preservation Fund;

(iii) provide general advice and guidance to the State Historic Preservation Officer; and

(iv) perform such other duties as may be appropriate.

(13) “Historic preservation review commission” means a board, council, commission, or other similar collegial body which is established by State or local legislation as provided in section 470a(c)(1)(B) of this title, and the members of which are appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction concerned from among—

(A) professionals in the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines, to the extent such professionals are available in the community concerned, and

(B) such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.

(14) “Tribal lands” means—

(A) all lands within the exterior boundaries of any Indian reservation; and

(B) all dependent Indian communities.

(15) “Certified local government” means a local government whose local historic preservation program has been certified pursuant to section 470a(c) of this title.

(16) “Council” means the Advisory Council on Historic Preservation established by section 470i of this title.

(17) “Native Hawaiian” means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

(18) “Native Hawaiian organization” means any organization which—

(A) serves and represents the interests of Native Hawaiians;

(B) has as a primary and stated purpose the provision of services to Native Hawaiians; and

(C) has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians.

The term includes, but is not limited to, the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai'i Nei, an organization incorporated under the laws of the State of Hawaii.

(Pub. L. 89–665, title III, §301, as added Pub. L. 96–515, title V, §501, Dec. 12, 1980, 94 Stat. 3001; amended Pub. L. 102–575, title XL, §4019(a), Oct. 30, 1992, 106 Stat. 4763; Pub. L. 106–208, §5(a)(10), May 26, 2000, 114 Stat. 319.)

### **Amendments**

**2000**—Par. (12)(C)(iii). Pub. L. 106–208 substituted semicolon for comma after “Officer”.

**1992**—Par. (1). Pub. L. 102–575, §4019(a)(1), struck out “, except that in the case of any Federal program exempted under section 470v of this title, the agency administering such program shall not be treated as an agency with respect to such program” after “title 5”.

Par. (2). Pub. L. 102–575, §4019(a)(2), substituted “the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau” for “the Trust Territories of the Pacific Islands”.

Par. (4). Pub. L. 102–575, §4019(a)(3), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “ ‘Indian tribe’ means the governing body of any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior and for which the United States holds land in trust or restricted status for that entity or its members. Such term also includes any Native village corporation, regional corporation, and Native Group established pursuant to the Alaska Native Claims Settlement Act.”

Par. (5). Pub. L. 102–575, §4019(a)(4), substituted “Register, including artifacts, records, and material remains related to such a property or resource.” for “Register; such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.”

Par. (7). Pub. L. 102–575, §4019(a)(5), amended par. (7) generally. Prior to amendment, par. (7) read as follows: “ ‘Undertaking’ means any action as described in section 470f of this title.”



Par. (8). Pub. L. 102–575, §4019(a)(6), substituted “maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities,” for “maintenance and reconstruction.”

Par. (9). Pub. L. 102–575, §4019(a)(7), substituted “definable area” for “definable urban area”.

Par. (10). Pub. L. 102–575, §4019(a)(8), substituted “an area” for “an urban area of one or more neighborhoods and”.

Par. (11). Pub. L. 102–575, §4019(a)(9), inserted “acting through the Director of the National Park Service” after “of the Interior”.

Par. (12)(B). Pub. L. 102–575, §4019(a)(10), substituted “architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture” for “and architecture”.

Par. (13)(A). Pub. L. 102–575, §4019(a)(11), substituted “prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture” for “archaeology”.

Pars. (14) to (18). Pub. L. 102–575, §4019(a)(12), added pars. (14) to (18).

### **Historic Preservation Fund Matching Grant Assistance**

Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1382, provided in part: “That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance, in fiscal year 1993 and thereafter, as authorized under 16 U.S.C. 470w(2)”.

### **Termination of Trust Territory of the Pacific Islands**

For termination of Trust Territory of the Pacific Islands and the Trusteeship Agreement, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### **§470w–1. Authorization for expenditure of appropriated funds**

Where appropriate, each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of activities carried out pursuant to this subchapter, except to the extent appropriations legislation expressly provides otherwise.

(Pub. L. 89–665, title III, §302, as added Pub. L. 96–515, title V, §501, Dec. 12, 1980, 94 Stat. 3002.)

**§470w–2. Donations and bequests of money, personal property and less than fee interests in historic property**

(a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this subchapter and shall hold, use, expend, and administer the same for such purposes.

(b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this subchapter shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.

(Pub. L. 89–665, title III, §303, as added Pub. L. 96–515, title V, §501, Dec. 12, 1980, 94 Stat. 3002.)

**§470w–3. Access to information**

**(a) Authority to withhold from disclosure**

The head of a Federal agency or other public official receiving grant assistance pursuant to this subchapter, after consultation with the Secretary, shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may—

- (1) cause a significant invasion of privacy;
- (2) risk harm to the historic resources; or
- (3) impede the use of a traditional religious site by practitioners.

**(b) Access determination**

When the head of a Federal agency or other public official has determined that information should be withheld from the public pursuant to subsection (a) of this section, the Secretary, in consultation with such Federal agency head or official, shall determine who may have access to the information for the purpose of carrying out this subchapter.

**(c) Consultation with Council**

When the information in question has been developed in the course of an agency's compliance with section 470f or 470h–2(f) of this title, the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b) of this section.

(Pub. L. 89–665, title III, §304, as added Pub. L. 96–515, title V, §501, Dec. 12, 1980, 94 Stat. 3002; amended Pub. L. 102–575, title XL, §4020, Oct. 30, 1992, 106 Stat. 4765.)

### **Amendments**

**1992**—Pub. L. 102–575 amended section generally. Prior to amendment, section read as follows: “The head of any Federal agency, after consultation with the Secretary, shall withhold from disclosure to the public, information relating to the location or character of historic resources whenever the head of the agency or the Secretary determines that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such resources or to the area or place where such resources are located.”

#### **§470w–4. Attorneys’ fees and costs to prevailing parties in civil actions**

In any civil action brought in any United States district court by any interested person to enforce the provisions of this subchapter, if such person substantially prevails in such action, the court may award attorneys’ fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable.

(Pub. L. 89–665, title III, §305, as added Pub. L. 96–515, title V, §501, Dec. 12, 1980, 94 Stat. 3002.)

#### **§470w–5. National Museum for the Building Arts**

##### **(a) Cooperative agreement between Secretary, Administrator of General Services Administration and Committee for National Museum of the Building Arts; purposes**

In order to provide a national center to commemorate and encourage the building arts and to preserve and maintain a nationally significant building which exemplifies the great achievements of the building arts in the United States, the Secretary and the Administrator of the General Services Administration are authorized and directed to enter into a cooperative agreement with the Committee for a National Museum of the Building Arts, Incorporated, a nonprofit corporation organized and existing under the laws of the District of Columbia, or its successor, for the operation of a National Museum for the Building Arts in the Federal Building located in the block bounded by Fourth Street, Fifth Street, F Street, and G Street, Northwest in Washington, District of Columbia. Such museum shall—

(1) collect and disseminate information concerning the building arts, including the establishment of a national reference center for current and historic documents, publications, and research relating to the building arts;

- (2) foster educational programs relating to the history, practice and contribution to society of the building arts, including promotion of imaginative educational approaches to enhance understanding and appreciation of all facets of the building arts;
- (3) publicly display temporary and permanent exhibits illustrating, interpreting and demonstrating the building arts;
- (4) sponsor or conduct research and study into the history of the building arts and their role in shaping our civilization; and
- (5) encourage contributions to the building arts.

**(b) Provisions of cooperative agreement**

The cooperative agreement referred to in subsection (a) of this section shall include provisions which—

- (1) make the site available to the Committee referred to in subsection (a) of this section without charge;
- (2) provide, subject to available appropriations, such maintenance, security, information, janitorial and other services as may be necessary to assure the preservation and operation of the site; and
- (3) prescribe reasonable terms and conditions by which the Committee can fulfill its responsibilities under this subchapter.

**(c) Matching grants-in-aid to Committee; limitation on amounts**

The Secretary is authorized and directed to provide matching grants-in-aid to the Committee referred to in subsection (a) of this section for its programs related to historic preservation. The Committee shall match such grants-in-aid in a manner and with such funds and services as shall be satisfactory to the Secretary, except that no more than \$500,000 may be provided to the Committee in any one fiscal year.

**(d) Renovation of site**

The renovation of the site shall be carried out by the Administrator with the advice of the Secretary. Such renovation shall, as far as practicable—

- (1) be commenced immediately,

(2) preserve, enhance, and restore the distinctive and historically authentic architectural character of the site consistent with the needs of a national museum of the building arts and other compatible use, and

(3) retain the availability of the central court of the building, or portions thereof, for appropriate public activities.

**(e) Annual Committee report to Secretary and Administrator**

The Committee shall submit an annual report to the Secretary and the Administrator concerning its activities under this section and shall provide the Secretary and the Administrator with such other information as the Secretary may, from time to time, deem necessary or advisable.

**(f) “Building arts” defined**

For purposes of this section, the term “building arts” includes, but shall not be limited to, all practical and scholarly aspects of prehistoric, historic, and contemporary architecture, archaeology, construction, building technology and skills, landscape architecture, preservation and conservation, building and construction, engineering, urban and community design and renewal, city and regional planning, and related professions, skills, trades, and crafts.

(Pub. L. 89–665, title III, §306, as added Pub. L. 96–515, title V, §501, Dec. 12, 1980, 94 Stat. 3002.)

**§470w–6. Effective date of regulations**

**(a) Effective date of final regulations**

No final regulation of the Secretary shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of Congress are in session.

**(b) Disapproval of regulation by resolution of Congress**

The regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: “That Congress disapproves the regulation promulgated by the Secretary dealing with the matter of \_\_\_\_\_, which regulation was transmitted to Congress on \_\_\_\_\_,” the blank spaces therein being appropriately filled.

**(c) Failure of Congress to adopt resolution of disapproval of regulation**

If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided for.

**(d) Sessions of Congress**

For the purposes of this section—

- (1) continuity of session is broken only by an adjournment sine die; and
- (2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

**(e) Congressional inaction or rejection of resolution of disapproval not deemed approval of regulation**

Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation.

(Pub. L. 89–665, title III, §307, as added Pub. L. 96–515, title V, §501, Dec. 12, 1980, 94 Stat. 3004; amended Pub. L. 103–437, §6(d)(29), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104–333, div. I, title VIII, §814(d)(1)(O), (2)(E), Nov. 12, 1996, 110 Stat. 4196; Pub. L. 106–176, title I, §120(a)(2), Mar. 10, 2000, 114 Stat. 28; Pub. L. 106–208, §5(a)(11)–(13), May 26, 2000, 114 Stat. 319.)

**Amendments**

**2000**—Subsec. (a). Pub. L. 106–208, §5(a)(11), substituted “No final regulation” for “Except as provided in subsection (b) of this section, no final regulation”.

Pub. L. 106–176 made technical correction to directory language of Pub. L. 104–333, §814(d)(2)(E). See 1996 Amendment note below.

Subsec. (b). Pub. L. 106–208, §5(a)(13), redesignated subsec. (c) as (b).

Subsec.(c). Pub. L. 106–208, §5(a)(13), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Pub. L. 106–208, §5(a)(12), which directed the amendment of subsec. (c) by substituting “The regulation” for “Except as provided in subsection (b) of this section, the regulation”, was executed by making the substitution for text that did not include the phrase “of this section”.

Subsecs. (d) to (f). Pub. L. 106–208, §5(a)(13), redesignated subsecs. (d) to (f) as (c) to (e), respectively.

**1996**—Subsec. (a). Pub. L. 104–333, §814(d)(2)(E), as amended by Pub. L. 106–176, struck out first two sentences which read as follows: “At least thirty days prior to publishing in the Federal Register any proposed regulation required by this subchapter, the Secretary shall transmit a copy of the regulation to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary also shall transmit to such committees a copy of any final regulation prior to its publication in the Federal Register.”

Subsec. (b). Pub. L. 104–333, §814(d)(1)(O), struck out subsec. (b) which read as follows: “In the case of an emergency, a final regulation of the Secretary may become effective without regard to the last sentence of subsection (a) of this section if the Secretary notified in writing the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.”

**1994**—Subsecs. (a), (b). Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

## **§470w–7. Historic lighthouse preservation**

### **(a) In general**

In order to provide a national historic light station program, the Secretary shall—

- (1) collect and disseminate information concerning historic light stations, including historic lighthouses and associated structures;
- (2) foster educational programs relating to the history, practice, and contribution to society of historic light stations;
- (3) sponsor or conduct research and study into the history of light stations;
- (4) maintain a listing of historic light stations; and

(5) assess the effectiveness of the program established by this section regarding the conveyance of historic light stations.

**(b) Conveyance of historic light stations**

**(1) Process and policy**

Not later than 1 year after October 24, 2000, the Secretary and the Administrator shall establish a process and policies for identifying, and selecting, an eligible entity to which a historic light station could be conveyed for education, park, recreation, cultural, or historic preservation purposes, and to monitor the use of such light station by the eligible entity.

**(2) Application review**

The Secretary shall review all applications for the conveyance of a historic light station, when the agency with administrative jurisdiction over the historic light station has determined the property to be “excess property” as that term is defined in section 102(3) of title 40, and forward to the Administrator a single approved application for the conveyance of the historic light station. When selecting an eligible entity, the Secretary shall consult with the State Historic Preservation Officer of the State in which the historic light station is located.

**(3) Conveyance of historic light stations**

(A) Except as provided in subparagraph (B), the Administrator shall convey, by quitclaim deed, without consideration, all right, title, and interest of the United States in and to the historic light station, subject to the conditions set forth in subsection (c) of this section after the Secretary's selection of an eligible entity. The conveyance of a historic light station under this section shall not be subject to the provisions of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) or section 416(d) of the Coast Guard Authorization Act of 1998 (Public Law 105–383).

(B)(i) Historic light stations located within the exterior boundaries of a unit of the National Park System or a refuge within the National Wildlife Refuge System shall be conveyed or sold only with the approval of the Secretary.

(ii) If the Secretary approves the conveyance of a historic light station referenced in this paragraph, such conveyance shall be subject to the conditions set forth in subsection (c) of this section and any other terms or conditions the Secretary considers necessary to protect the resources of the park unit or wildlife refuge.

(iii) If the Secretary approves the sale of a historic light station referenced in this paragraph, such sale shall be subject to the conditions set forth in subparagraphs (A)



through (D) and (H) of subsection (c)(1) of this section and subsection (c)(2) of this section and any other terms or conditions the Secretary considers necessary to protect the resources of the park unit or wildlife refuge.

(iv) For those historic light stations referenced in this paragraph, the Secretary is encouraged to enter into cooperative agreements with appropriate eligible entities, as provided in this subchapter, to the extent such cooperative agreements are consistent with the Secretary's responsibilities to manage and administer the park unit or wildlife refuge, as appropriate.

**(c) Terms of conveyance**

**(1) In general**

The conveyance of a historic light station shall be made subject to any conditions, including the reservation of easements and other rights on behalf of the United States, the Administrator considers necessary to ensure that—

(A) the Federal aids to navigation located at the historic light station in operation on the date of conveyance remain the personal property of the United States and continue to be operated and maintained by the United States for as long as needed for navigational purposes;

(B) there is reserved to the United States the right to remove, replace, or install any Federal aid to navigation located at the historic light station as may be necessary for navigational purposes;

(C) the eligible entity to which the historic light station is conveyed under this section shall not interfere or allow interference in any manner with any Federal aid to navigation, nor hinder activities required for the operation and maintenance of any Federal aid to navigation, without the express written permission of the head of the agency responsible for maintaining the Federal aid to navigation;

(D) the eligible entity to which the historic light station is conveyed under this section shall, at its own cost and expense, use and maintain the historic light station in accordance with this subchapter, the Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR part 68, and other applicable laws, and any proposed changes to the historic light station shall be reviewed and approved by the Secretary in consultation with the State Historic Preservation Officer of the State in which the historic light station is located, for consistency with 36 CFR part 800.5(a)(2)(vii), and the Secretary of the Interior's Standards for Rehabilitation, 36 CFR part 67.7;

(E) the eligible entity to which the historic light station is conveyed under this section shall make the historic light station available for education, park, recreation, cultural or historic preservation purposes for the general public at reasonable times and under reasonable conditions;

(F) the eligible entity to which the historic light station is conveyed shall not sell, convey, assign, exchange, or encumber the historic light station, any part thereof, or any associated historic artifact conveyed to the eligible entity in conjunction with the historic light station conveyance, including but not limited to any lens or lanterns, unless such sale, conveyance, assignment, exchange or encumbrance is approved by the Secretary;

(G) the eligible entity to which the historic light station is conveyed shall not conduct any commercial activities at the historic light station, any part thereof, or in connection with any associated historic artifact conveyed to the eligible entity in conjunction with the historic light station conveyance, in any manner, unless such commercial activities are approved by the Secretary; and

(H) the United States shall have the right, at any time, to enter the historic light station conveyed under this section without notice, for purposes of operating, maintaining, and inspecting any aid to navigation and for the purpose of ensuring compliance with this subsection, to the extent that it is not possible to provide advance notice.

## **(2) Maintenance of aid to navigation**

Any eligible entity to which a historic light station is conveyed under this section shall not be required to maintain any Federal aid to navigation associated with a historic light station, except any private aids to navigation permitted under section 83 of title 14 to the eligible entity.

## **(3) Reversion**

In addition to any term or condition established pursuant to this subsection, the conveyance of a historic light station shall include a condition that the historic light station, or any associated historic artifact conveyed to the eligible entity in conjunction with the historic light station conveyance, including but not limited to any lens or lanterns, at the option of the Administrator, shall revert to the United States and be placed under the administrative control of the Administrator, if—

(A) the historic light station, any part thereof, or any associated historic artifact ceases to be available for education, park, recreation, cultural, or historic preservation purposes for the general public at reasonable times and under reasonable conditions which shall be set forth in the eligible entity's application;

(B) the historic light station or any part thereof ceases to be maintained in a manner that ensures its present or future use as a site for a Federal aid to navigation;

(C) the historic light station, any part thereof, or any associated historic artifact ceases to be maintained in compliance with this subchapter, the Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR part 68, and other applicable laws;

(D) the eligible entity to which the historic light station is conveyed, sells, conveys, assigns, exchanges, or encumbers the historic light station, any part thereof, or any associated historic artifact, without approval of the Secretary;

(E) the eligible entity to which the historic light station is conveyed, conducts any commercial activities at the historic light station, any part thereof, or in conjunction with any associated historic artifact, without approval of the Secretary; or

(F) at least 30 days before the reversion, the Administrator provides written notice to the owner that the historic light station or any part thereof is needed for national security purposes.

**(4) Light stations originally conveyed under other authority**

Upon receiving notice of an executed or intended conveyance by an owner who—

(A) received from the Federal Government under authority other than this subchapter an historic light station in which the United States retains a reversionary or other interest; and

(B) is conveying it to another person by sale, gift, or any other manner,

the Secretary shall review the terms of the executed or proposed conveyance to ensure that any new owner is capable of or is complying with any and all conditions of the original conveyance. The Secretary may require the parties to the conveyance and relevant Federal agencies to provide such information as is necessary to complete this review. If the Secretary determines that the new owner has not or is unable to comply with those conditions, the Secretary shall immediately advise the Administrator, who shall invoke any reversionary interest or take such other action as may be necessary to protect the interests of the United States.

**(d) Description of property**

**(1) In general**

The Administrator shall prepare the legal description of any historic light station conveyed under this section. The Administrator, in consultation with the Commandant, United States Coast Guard, and the Secretary, may retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the historic light station and located at the light station at the time of conveyance. Wherever possible, such historical artifacts should be used in interpreting that station. In cases where there is no method for preserving lenses and other artifacts and equipment in situ, priority should be given to preservation or museum entities most closely associated with the station, if they meet loan requirements.

**(2) Artifacts**

Artifacts associated with, but not located at, the historic light station at the time of conveyance shall remain the personal property of the United States under the administrative control of the Commandant, United States Coast Guard.

**(3) Covenants**

All conditions placed with the quitclaim deed of title to the historic light station shall be construed as covenants running with the land.

**(4) Submerged lands**

No submerged lands shall be conveyed under this section.

**(e) Definitions**

For purposes of this section:

**(1) Administrator**

The term “Administrator” shall mean the Administrator of General Services.

**(2) Historic light station**

The term “historic light station” includes the light tower, lighthouse, keepers dwelling, garages, storage sheds, oil house, fog signal building, boat house, barn, pumphouse, tramhouse support structures, piers, walkways, underlying and appurtenant land and related real property and improvements associated therewith; provided that the “historic light station” shall be included in or eligible for inclusion in the National Register of Historic Places.

**(3) Eligible entity**

The term “eligible entity” shall mean:

(A) any department or agency of the Federal Government; or

(B) any department or agency of the State in which the historic light station is located, the local government of the community in which the historic light station is located, nonprofit corporation, educational agency, or community development organization that—

(i) has agreed to comply with the conditions set forth in subsection (c) of this section and to have such conditions recorded with the deed of title to the historic light station; and

(ii) is financially able to maintain the historic light station in accordance with the conditions set forth in subsection (c) of this section.

#### **(4) Federal aid to navigation**

The term “Federal aid to navigation” shall mean any device, operated and maintained by the United States, external to a vessel or aircraft, intended to assist a navigator to determine position or safe course, or to warn of dangers or obstructions to navigation, and shall include, but not be limited to, a light, lens, lantern, antenna, sound signal, camera, sensor, electronic navigation equipment, power source, or other associated equipment.

#### **(5) Secretary**

The term “Secretary” means the Secretary of the Interior.

(Pub. L. 89–665, title III, §308, as added Pub. L. 106–355, §2, Oct. 24, 2000, 114 Stat. 1385; amended Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 108–293, title VI, §627, Aug. 9, 2004, 118 Stat. 1066.)

#### **References in Text**

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (b)(3)(A), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§11301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

Section 416(d) of the Coast Guard Authorization Act of 1998, referred to in subsec. (b)(3)(A), is section 416(d) of Pub. L. 105–383, which is set out as a note under section 93 of Title 14, Coast Guard.

## **Codification**

In subsec. (b)(2), “section 102 of title 40” substituted for “the Federal Property Administrative Services Act of 1949 (40 U.S.C. 472(e))” on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works.

## **Amendments**

**2004**—Subsec. (c)(4). Pub. L. 108–293 added par. (4).

**2000**—Subsec. (b)(3)(A). Pub. L. 106–400 substituted “McKinney-Vento Homeless Assistance Act” for “Stewart B. McKinney Homeless Assistance Act”.

## **Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## **§470w–8. Historic light station sales**

### **(a) In general**

In the event no applicants are approved for the conveyance of a historic light station pursuant to section 470w–7 of this title, the historic light station shall be offered for sale. Terms of such sales shall be developed by the Administrator of General Services and consistent with the requirements of section 470w–7, subparagraphs (A) through (D) and (H) of subsection (c)(1), and subsection (c)(2), of this title. Conveyance documents shall include all necessary covenants to protect the historical integrity of the historic light station and ensure that any Federal aid to navigation located at the historic light station is operated and maintained by the United States for as long as needed for that purpose.

### **(b) Net sale proceeds**

Net sale proceeds from the disposal of a historic light station—

(1) located on public domain lands shall be transferred to the National Maritime Heritage Grant<sup>1</sup> Program, established by the National Maritime Heritage Act of 1994 (Public Law 103–451) [16 U.S.C. 5401 et seq.] within the Department of the Interior; and

(2) under the administrative control of the Coast Guard shall be credited to the Coast Guard's Operating Expenses appropriation account, and shall be available for obligation and expenditure for the maintenance of light stations remaining under the administrative control of the Coast Guard, such funds to remain available until expended and shall be available in addition to funds available in the Operating Expense appropriation for this purpose.

(Pub. L. 89–665, title III, §309, as added Pub. L. 106–355, §3, Oct. 24, 2000, 114 Stat. 1389.)

### **References in Text**

The National Maritime Heritage Act of 1994, referred to in subsec. (b)(1), is Pub. L. 103–451, Nov. 2, 1994, 108 Stat. 4769, as amended, which is classified generally to chapter 74 (§5401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

### **Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

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

## **Part D—National Center for Preservation Technology and Training**

### **§470x. Findings**

The Congress finds and declares that, given the complexity of technical problems encountered in preserving historic properties and the lack of adequate distribution of technical information to preserve such properties, a national initiative to coordinate and promote research, distribute information, and provide training about preservation skills and technologies would be beneficial.

(Pub. L. 89–665, title IV, §401, as added Pub. L. 102–575, title XL, §4022, Oct. 30, 1992, 106 Stat. 4765.)

### **§470x–1. Definitions**

For the purposes of this part—

(1) The term “Board” means the National Preservation Technology and Training Board established pursuant to section 470x–3 of this title.

(2) The term “Center” means the National Center for Preservation Technology and Training established pursuant to section 470x–2 of this title.

(3) The term “Secretary” means the Secretary of the Interior.

(Pub. L. 89–665, title IV, §402, as added Pub. L. 102–575, title XL, §4022, Oct. 30, 1992, 106 Stat. 4766.)

### **§470x–2. Establishment of National Center**

#### **(a) Establishment**

There is hereby established within the Department of the Interior a National Center for Preservation Technology and Training. The Center shall be located at Northwestern State University of Louisiana in Natchitoches, Louisiana.

#### **(b) Purposes**

The purposes of the Center shall be to—

(1) develop and distribute preservation and conservation skills and technologies for the identification, evaluation, conservation, and interpretation of prehistoric and historic resources;

(2) develop and facilitate training for Federal, State and local resource preservation professionals, cultural resource managers, maintenance personnel, and others working in the preservation field;

(3) take steps to apply preservation technology benefits from ongoing research by other agencies and institutions;

(4) facilitate the transfer of preservation technology among Federal agencies, State and local governments, universities, international organizations, and the private sector; and

(5) cooperate with related international organizations including, but not limited to the International Council on Monuments and Sites, the International Center for the Study of Preservation and Restoration of Cultural Property, and the International Council on Museums.

#### **(c) Programs**



Such purposes shall be carried out through research, professional training, technical assistance, and programs for public awareness, and through a program of grants established under section 470x-4 of this title.

**(d) Executive Director**

The Center shall be headed by an Executive Director with demonstrated expertise in historic preservation appointed by the Secretary with advice of the Board.

**(e) Assistance from Secretary**

The Secretary shall provide the Center assistance in obtaining such personnel, equipment, and facilities as may be needed by the Center to carry out its activities.

(Pub. L. 89-665, title IV, §403, as added Pub. L. 102-575, title XL, §4022, Oct. 30, 1992, 106 Stat. 4766.)

**§470x-3. Preservation Technology and Training Board**

**(a) Establishment**

There is established a Preservation Technology and Training Board.

**(b) Duties**

The Board shall—

- (1) provide leadership, policy advice, and professional oversight to the Center;
- (2) advise the Secretary on priorities and the allocation of grants among the activities of the Center; and
- (3) submit an annual report to the President and the Congress.

**(c) Membership**

The Board shall be comprised of—

- (1) the Secretary, or the Secretary's designee;
- (2) 6 members appointed by the Secretary who shall represent appropriate Federal, State, and local agencies, State and local historic preservation commissions, and other public and international organizations; and

(3) 6 members appointed by the Secretary on the basis of outstanding professional qualifications who represent major organizations in the fields of archaeology, architecture, conservation, curation, engineering, history, historic preservation, landscape architecture, planning, or preservation education.

(Pub. L. 89–665, title IV, §404, as added Pub. L. 102–575, title XL, §4022, Oct. 30, 1992, 106 Stat. 4766; amended Pub. L. 106–208, §5(a)(14), May 26, 2000, 114 Stat. 319.)

### **Amendments**

**2000**—Subsec. (c)(2). Pub. L. 106–208 substituted a semicolon for a comma after “organizations”.

### **§470x–4. Preservation grants**

#### **(a) In general**

The Secretary, in consultation with the Board, shall provide preservation technology and training grants to eligible applicants with a demonstrated institutional capability and commitment to the purposes of the Center, in order to ensure an effective and efficient system of research, information distribution and skills training in all the related historic preservation fields.

#### **(b) Grant requirements**

(1) Grants provided under this section shall be allocated in such a fashion to reflect the diversity of the historic preservation fields and shall be geographically distributed.

(2) No grant recipient may receive more than 10 percent of the grants allocated under this section within any year.

(3) The total administrative costs, direct and indirect, charged for carrying out grants under this section may not exceed 25 percent of the aggregate costs.

#### **(c) Eligible applicants**

Eligible applicants may include Federal and non-Federal laboratories, accredited museums, universities, nonprofit organizations; offices, units, and Cooperative Park Study Units of the National Park System, State Historic Preservation Offices, tribal preservation offices, and Native Hawaiian organizations.

#### **(d) Standards**

All such grants shall be awarded in accordance with accepted professional standards and methods, including peer review of projects.

**(e) Authorization of appropriations**

There is authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 89–665, title IV, §405, as added Pub. L. 102–575, title XL, §4022, Oct. 30, 1992, 106 Stat. 4767.)

**§470x–5. General provisions**

**(a) Acceptance of grants and transfers**

The Center may accept—

- (1) grants and donations from private individuals, groups, organizations, corporations, foundations, and other entities; and
- (2) transfers of funds from other Federal agencies.

**(b) Contracts and cooperative agreements**

Subject to appropriations, the Center may enter into contracts and cooperative agreements with Federal, State, local, and tribal governments, Native Hawaiian organizations, educational institutions, and other public entities to carry out the Center's responsibilities under this part.

**(c) Authorization of appropriations**

There are authorized to be appropriated such sums as may be necessary for the establishment, operation, and maintenance of the Center. Funds for the Center shall be in addition to existing National Park Service programs, centers, and offices.

(Pub. L. 89–665, title IV, §406, as added Pub. L. 102–575, title XL, §4022, Oct. 30, 1992, 106 Stat. 4767.)

**§470x–6. National Park Service preservation**

In order to improve the use of existing National Park Service resources, the Secretary shall fully utilize and further develop the National Park Service preservation (including conservation) centers and regional offices. The Secretary shall improve the coordination

of such centers and offices within the National Park Service, and shall, where appropriate, coordinate their activities with the Center and with other appropriate parties.

(Pub. L. 89-665, title IV, §407, as added Pub. L. 102-575, title XL, §4022, Oct. 30, 1992, 106 Stat. 4768.)

## **IV. ARCHAEOLOGICAL RESOURCES PROTECTION**

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(as of January 2011)

16 U.S.C. Ch. 1B: ARCHAEOLOGICAL RESOURCES PROTECTION  
From Title 16—CONSERVATION

### **CHAPTER 1B—ARCHAEOLOGICAL RESOURCES PROTECTION**

Sec.

470aa. Congressional findings and declaration of purpose.

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470mm. Surveying of lands; reporting of violations.

#### **§470aa. Congressional findings and declaration of purpose**

(a) The Congress finds that—

(1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation's heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness;

(3) existing Federal laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage; and

(4) there is a wealth of archaeological information which has been legally obtained by private individuals for noncommercial purposes and which could voluntarily be made available to professional archaeologists and institutions.

(b) The purpose of this chapter is to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained before October 31, 1979.

(Pub. L. 96–95, §2, Oct. 31, 1979, 93 Stat. 721.)

### **Short Title**

Section 1 of Pub. L. 96–95 provided that: “This Act [enacting this chapter] may be cited as the ‘Archaeological Resources Protection Act of 1979’.”

### **Galisteo Basin Archaeological Sites Protection**

Pub. L. 108–208, Mar. 19, 2004, 118 Stat. 558, known as the “Galisteo Basin Archaeological Sites Protection Act”, provided for the preservation, protection, and interpretation of nationally significant archaeological resources in the Galisteo Basin of New Mexico by designating Galisteo Basin Archaeological Protection Sites and their acreage and provided for addition, deletion or modification of the sites, administration, cooperative agreements, acquisition of land and interests, withdrawal of lands from mining and other public land laws, and construction of the Act.

### **§470bb. Definitions**

As used in this chapter—

(1) The term “archaeological resource” means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this chapter. Such regulations containing such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in archaeological context. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least 100 years of age.

(2) The term “Federal land manager” means, with respect to any public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. In the case of any public lands or Indian lands with respect to which no department, agency, or

instrumentality has primary management authority, such term means the Secretary of the Interior. If the Secretary of the Interior consents, the responsibilities (in whole or in part) under this chapter of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary of the Interior with respect to any land managed by such other Secretary or agency head, and in any such case, the term “Federal land manager” means the Secretary of the Interior.

(3) The term “public lands” means—

(A) lands which are owned and administered by the United States as part of—

(i) the national park system,

(ii) the national wildlife refuge system, or

(iii) the national forest system; and

(B) all other lands the fee title to which is held by the United States, other than lands on the Outer Continental Shelf and lands which are under the jurisdiction of the Smithsonian Institution.

(4) The term “Indian lands” means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian tribe or an Indian individual.

(5) The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.].

(6) The term “person” means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of any Indian tribe, or of any State or political subdivision thereof.

(7) The term “State” means any of the fifty States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(Pub. L. 96–95, §3, Oct. 31, 1979, 93 Stat. 721; Pub. L. 100–588, §1(a), Nov. 3, 1988, 102 Stat. 2983.)

## **References in Text**

The Alaska Native Claims Settlement Act, referred to in par. (5), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

### **Amendments**

**1988**—Par. (3). Pub. L. 100–588 substituted a period for semicolon at end.

### **§470cc. Excavation and removal**

#### **(a) Application for permit**

Any person may apply to the Federal land manager for a permit to excavate or remove any archaeological resource located on public lands or Indian lands and to carry out activities associated with such excavation or removal. The application shall be required, under uniform regulations under this chapter, to contain such information as the Federal land manager deems necessary, including information concerning the time, scope, and location and specific purpose of the proposed work.

#### **(b) Determinations by Federal land manager prerequisite to issuance of permit**

A permit may be issued pursuant to an application under subsection (a) of this section if the Federal land manager determines, pursuant to uniform regulations under this chapter, that—

- (1) the applicant is qualified, to carry out the permitted activity,
- (2) the activity is undertaken for the purpose of furthering archaeological knowledge in the public interest,
- (3) the archaeological resources which are excavated or removed from public lands will remain the property of the United States, and such resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution, and
- (4) the activity pursuant to such permit is not inconsistent with any management plan applicable to the public lands concerned.

#### **(c) Notification to Indian tribes of possible harm to or destruction of sites having religious or cultural importance**

If a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Federal land manager, before issuing such



permit, the Federal land manager shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 470hh of this title.

**(d) Terms and conditions of permit**

Any permit under this section shall contain such terms and conditions, pursuant to uniform regulations promulgated under this chapter, as the Federal land manager concerned deems necessary to carry out the purposes of this chapter.

**(e) Identification of individuals responsible for complying with permit terms and conditions and other applicable laws**

Each permit under this section shall identify the individual who shall be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this chapter and other law applicable to the permitted activity.

**(f) Suspension or revocation of permits; grounds**

Any permit issued under this section may be suspended by the Federal land manager upon his determination that the permittee has violated any provision of subsection (a), (b), or (c) of section 470ee of this title. Any such permit may be revoked by such Federal land manager upon assessment of a civil penalty under section 470ff of this title against the permittee or upon the permittee's conviction under section 470ee of this title.

**(g) Excavation or removal by Indian tribes or tribe members; excavation or removal of resources located on Indian lands**

(1) No permit shall be required under this section or under the Act of June 8, 1906 (16 U.S.C. 431), for the excavation or removal by any Indian tribe or member thereof of any archaeological resource located on Indian lands of such Indian tribe, except that in the absence of tribal law regulating the excavation or removal of archaeological resources on Indian lands, an individual tribal member shall be required to obtain a permit under this section.

(2) In the case of any permits for the excavation or removal of any archaeological<sup>1</sup> resource located on Indian lands, the permit may be granted only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such terms and conditions as may be requested by such Indian or Indian tribe.

**(h) Permits issued under Antiquities Act of 1906**

(1) No permit or other permission shall be required under the Act of June 8, 1906 (16 U.S.C. 431–433), for any activity for which a permit is issued under this section.

(2) Any permit issued under the Act of June 8, 1906 [16 U.S.C. 431–433], shall remain in effect according to its terms and conditions following the enactment of this chapter. No permit under this chapter shall be required to carry out any activity under a permit issued under the Act of June 8, 1906, before October 31, 1979, which remains in effect as provided in this paragraph, and nothing in this chapter shall modify or affect any such permit.

**(i) Compliance with provisions relating to undertakings on property listed in the National Register not required**

Issuance of a permit in accordance with this section and applicable regulations shall not require compliance with section 470f of this title.

**(j) Issuance of permits to State Governors for archaeological activities on behalf of States or their educational institutions**

Upon the written request of the Governor of any State, the Federal land manager shall issue a permit, subject to the provisions of subsections (b)(3), (b)(4), (c), (e), (f), (g), (h), and (i) of this section for the purpose of conducting archaeological research, excavation, removal, and curation, on behalf of the State or its educational institutions, to such Governor or to such designee as the Governor deems qualified to carry out the intent of this chapter.

(Pub. L. 96–95, §4, Oct. 31, 1979, 93 Stat. 722.)

**References in Text**

Act of June 8, 1906, referred to in subsecs. (g)(1) and (h), is act June 8, 1906, ch. 3060, 34 Stat. 225, known as the Antiquities Act of 1906, which is classified generally to sections 431, 432, and 433 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 431 of this title and Tables.

Following the enactment of this chapter, referred to in subsec. (h)(2), means following the enactment of Pub. L. 96–95, approved Oct. 31, 1979.

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

**§470dd. Custody of archaeological resources**

The Secretary of the Interior may promulgate regulations providing for—

(1) the exchange, where appropriate, between suitable universities, museums, or other scientific or educational institutions, of archaeological resources removed from public lands and Indian lands pursuant to this chapter, and

(2) the ultimate disposition of such resources and other resources removed pursuant to the Act of June 27, 1960 (16 U.S.C. 469–469c) [16 U.S.C. 469–469c–1] or the Act of June 8, 1906 (16 U.S.C. 431–433).

Any exchange or ultimate disposition under such regulation of archaeological resources excavated or removed from Indian lands shall be subject to the consent of the Indian or Indian tribe which owns or has jurisdiction over such lands. Following promulgation of regulations under this section, notwithstanding any other provision of law, such regulations shall govern the disposition of archaeological resources removed from public lands and Indian lands pursuant to this chapter.

(Pub. L. 96–95, §5, Oct. 31, 1979, 93 Stat. 724.)

### **References in Text**

Act of June 27, 1960 (16 U.S.C. 469–469c), referred to in par. (2), is act June 27, 1960, Pub. L. 86–523, 74 Stat. 220, as amended, which is classified generally to sections 469 to 469c–1 of this title. For complete classification of this Act to the Code, see Tables.

Act of June 8, 1906 (16 U.S.C. 431–433), referred to in par. (2), is act June 8, 1906, ch. 3060, 34 Stat. 225, known as the Antiquities Act of 1906, which is classified generally to sections 431, 432, and 433 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 431 of this title and Tables.

### **§470ee. Prohibited acts and criminal penalties**

#### **(a) Unauthorized excavation, removal, damage, alteration, or defacement of archaeological resources**

No person may excavate, remove, damage, or otherwise alter or deface, or attempt to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 470cc of this title, a permit referred to in section 470cc(h)(2) of this title, or the exemption contained in section 470cc(g)(1) of this title.

#### **(b) Trafficking in archaeological resources the excavation or removal of which was wrongful under Federal law**

No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands or Indian lands in violation of—

(1) the prohibition contained in subsection (a) of this section, or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

**(c) Trafficking in interstate or foreign commerce in archaeological resources the excavation, removal, sale, purchase, exchange, transportation or receipt of which was wrongful under State or local law**

No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.

**(d) Penalties**

Any person who knowingly violates, or counsels, procures, solicits, or employs any other person to violate, any prohibition contained in subsection (a), (b), or (c) of this section shall, upon conviction, be fined not more than \$10,000 or imprisoned not more than one year, or both: Provided, however, That if the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of \$500, such person shall be fined not more than \$20,000 or imprisoned not more than two years, or both. In the case of a second or subsequent such violation upon conviction such person shall be fined not more than \$100,000, or imprisoned not more than five years, or both.

**(e) Effective date**

The prohibitions contained in this section shall take effect on October 31, 1979.

**(f) Prospective application**

Nothing in subsection (b)(1) of this section shall be deemed applicable to any person with respect to an archaeological resource which was in the lawful possession of such person prior to October 31, 1979.

**(g) Removal of arrowheads located on ground surface**

Nothing in subsection (d) of this section shall be deemed applicable to any person with respect to the removal of arrowheads located on the surface of the ground.

(Pub. L. 96–95, §6, Oct. 31, 1979, 93 Stat. 724; Pub. L. 100–588, §1(b), (c), Nov. 3, 1988, 102 Stat. 2983.)

### **Amendments**

**1988**—Subsec. (a). Pub. L. 100–588, §1(b), inserted “, or attempt to excavate, remove, damage, or otherwise alter or deface” after “deface”.

Subsec. (d). Pub. L. 100–588, §1(c), substituted “\$500” for “\$5,000”.

### **§470ff. Civil penalties**

#### **(a) Assessment by Federal land manager**

(1) Any person who violates any prohibition contained in an applicable regulation or permit issued under this chapter may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.

(2) The amount of such penalty shall be determined under regulations promulgated pursuant to this chapter, taking into account, in addition to other factors—

(A) the archaeological or commercial value of the archaeological resource involved, and

(B) the cost of restoration and repair of the resource and the archaeological site involved.

Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person. The amount of any penalty assessed under this subsection for any violation shall not exceed an amount equal to double the cost of restoration and repair of resources and archaeological sites damaged and double the fair market value of resources destroyed or not recovered.

(3) No penalty shall be assessed under this section for the removal of arrowheads located on the surface of the ground.

#### **(b) Judicial review of assessed penalties; collection of unpaid assessments**

(1) Any person aggrieved by an order assessing a civil penalty under subsection (a) of this section may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such a person resides or transacts business. Such a petition may only be filed within the 30-day

period beginning on the date the order making such assessment was issued. The court shall hear such action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and such person has not filed a petition for judicial review of the order in accordance with paragraph (1), or

(B) after a court in an action brought under paragraph (1) has entered a final judgment upholding the assessment of a civil penalty,

the Federal land managers may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and amount of such penalty shall not be subject to review.

**(c) Hearings**

Hearings held during proceedings for the assessment of civil penalties authorized by subsection (a) of this section shall be conducted in accordance with section 554 of title 5. The Federal land manager may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Pub. L. 96–95, §7, Oct. 31, 1979, 93 Stat. 725.)

**§470gg. Enforcement**

**(a) Rewards**

Upon the certification of the Federal land manager concerned, the Secretary of the Treasury is directed to pay from penalties and fines collected under sections 470ee and 470ff of this title an amount equal to one-half of such penalty or fine, but not to exceed

\$500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which such penalty or fine was paid. If several persons provided such information, such amount shall be divided among such persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

**(b) Forfeitures**

All archaeological resources with respect to which a violation of subsection (a), (b), or (c) of section 470ee of this title occurred and which are in the possession of any person, and all vehicles and equipment of any person which were used in connection with such violation, may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon—

- (1) such person's conviction of such violation under section 470ee of this title,
- (2) assessment of a civil penalty against such person under section 470ff of this title with respect to such violation, or
- (3) a determination by any court that such archaeological resources, vehicles, or equipment were involved in such violation.

**(c) Disposition of penalties collected and items forfeited in cases involving archaeological resources excavated or removed from Indian lands**

In cases in which a violation of the prohibition contained in subsection (a), (b), or (c) of section 470ee of this title involve archaeological resources excavated or removed from Indian lands, the Federal land manager or the court, as the case may be, shall provide for the payment to the Indian or Indian tribe involved of all penalties collected pursuant to section 470ff of this title and for the transfer to such Indian or Indian tribe of all items forfeited under this section.

(Pub. L. 96–95, §8, Oct. 31, 1979, 93 Stat. 726.)

**§470hh. Confidentiality of information concerning nature and location of archaeological resources**

**(a) Disclosure of information**

Information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this chapter or under any other provision of Federal law may not be made available to the public under

subchapter II of chapter 5 of title 5 or under any other provision of law unless the Federal land manager concerned determines that such disclosure would—

- (1) further the purposes of this chapter or the Act of June 27, 1960 (16 U.S.C. 469–469c) [16 U.S.C. 469–469c–1], and
- (2) not create a risk of harm to such resources or to the site at which such resources are located.

**(b) Request for disclosure by Governors**

Notwithstanding the provisions of subsection (a) of this section, upon the written request of the Governor of any State, which request shall state—

- (1) the specific site or area for which information is sought,
- (2) the purpose for which such information is sought,
- (3) a commitment by the Governor to adequately protect the confidentiality of such information to protect the resource from commercial exploitation, the Federal land manager concerned shall provide to the Governor information concerning the nature and location of archaeological resources within the State of the requesting Governor.

(Pub. L. 96–95, §9, Oct. 31, 1979, 93 Stat. 727.)

**References in Text**

Act of June 27, 1960 (16 U.S.C. 469–469c), referred to in subsec. (a)(1), is act June 27, 1960, Pub. L. 86–523, 74 Stat. 220, as amended, which is classified generally to sections 469 to 469c–1 of this title. For complete classification of this Act to the Code, see Tables.

**§470ii. Rules and regulations; intergovernmental coordination**

**(a) Promulgation; effective date**

The Secretaries of the Interior, Agriculture and Defense and the Chairman of the Board of the Tennessee Valley Authority, after consultation with other Federal land managers, Indian tribes, representatives of concerned State agencies, and after public notice and hearing, shall promulgate such uniform rules and regulations as may be appropriate to carry out the purposes of this chapter. Such rules and regulations may be promulgated only after consideration of the provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996 [, 1996a]). Each uniform rule or regulation promulgated under this chapter shall be submitted on the same calendar day to the Committee on



Energy and Natural Resources of the United States Senate and to the Committee on Natural Resources of the United States House of Representatives, and no such uniform rule or regulation may take effect before the expiration of a period of ninety calendar days following the date of its submission to such Committees.

**(b) Federal land managers' rules**

Each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations under subsection (a) of this section, as may be appropriate for the carrying out of his functions and authorities under this chapter.

**(c) Federal land managers' public awareness program of archaeological resources on public lands and Indian lands**

Each Federal land manager shall establish a program to increase public awareness of the significance of the archaeological resources located on public lands and Indian lands and the need to protect such resources.

(Pub. L. 96–95, §10, Oct. 31, 1979, 93 Stat. 727; Pub. L. 100–588, §1(d), Nov. 3, 1988, 102 Stat. 2983; Pub. L. 103–437, §6(d)(30), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104–333, div. I, title VIII, §814(d)(2)(A), Nov. 12, 1996, 110 Stat. 4196.)

**References in Text**

The American Indian Religious Freedom Act, referred to in subsec. (a), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

**Amendments**

**1996**—Subsec. (c). Pub. L. 104–333 struck out at end “Each such land manager shall submit an annual report to the Committee on Natural Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate regarding the actions taken under such program.”

**1994**—Subsecs. (a), (c). Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

**1988**—Subsec. (c). Pub. L. 100–588 added subsec. (c).

**§470jj. Cooperation with private individuals**

The Secretary of the Interior shall take such action as may be necessary, consistent with the purposes of this chapter, to foster and improve the communication, cooperation, and exchange of information between—

- (1) private individuals having collections of archaeological resources and data which were obtained before the date of the enactment of this chapter, and
- (2) Federal authorities responsible for the protection of archaeological resources on the public lands and Indian lands and professional archaeologists and associations of professional archaeologists.

In carrying out this section, the Secretary shall, to the extent practicable and consistent with the provisions of this chapter, make efforts to expand the archaeological data base for the archaeological resources of the United States through increased cooperation between private individuals referred to in paragraph (1) and professional archaeologists and archaeological organizations.

(Pub. L. 96–95, §11, Oct. 31, 1979, 93 Stat. 727.)

#### **§470kk. Savings provisions**

##### **(a) Mining, mineral leasing, reclamation, and other multiple uses**

Nothing in this chapter shall be construed to repeal, modify, or impose additional restrictions on the activities permitted under existing laws and authorities relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

##### **(b) Private collections**

Nothing in this chapter applies to, or requires a permit for, the collection for private purposes of any rock, coin, bullet, or mineral which is not an archaeological resource, as determined under uniform regulations promulgated under section 470bb(1) of this title.

##### **(c) Lands within chapter**

Nothing in this chapter shall be construed to affect any land other than public land or Indian land or to affect the lawful recovery, collection, or sale of archaeological resources from land other than public land or Indian land.

(Pub. L. 96–95, §12, Oct. 31, 1979, 93 Stat. 728.)

#### **§470ll. Annual report to Congress**

As part of the annual report required to be submitted to the specified committees of the Congress pursuant to section 469a–3(c) of this title, the Secretary of the Interior shall comprehensively report as a separate component on the activities carried out under the provisions of this chapter, and he shall make such recommendations as he deems appropriate as to changes or improvements needed in the provisions of this chapter. Such report shall include a brief summary of the actions undertaken by the Secretary under section 470jj of this title, relating to cooperation with private individuals.

(Pub. L. 96–95, §13, Oct. 31, 1979, 93 Stat. 728.)

**§470mm. Surveying of lands; reporting of violations**

The Secretaries of the Interior, Agriculture, and Defense and the Chairman of the Board of the Tennessee Valley Authority shall—

- (a) develop plans for surveying lands under their control to determine the nature and extent of archeological resources on those lands;
- (b) prepare a schedule for surveying lands that are likely to contain the most scientifically valuable archeological resources; and
- (c) develop documents for the reporting of suspected violations of this chapter and establish when and how those documents are to be completed by officers, employees, and agents of their respective agencies.

(Pub. L. 96–95, §14, as added Pub. L. 100–555, Oct. 28, 1988, 102 Stat. 2778.)

## V. MARINE SANCTUARIES

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(as of January 2011)

16 U.S.C. Ch. 32: MARINE SANCTUARIES

From Title 16—CONSERVATION

### CHAPTER 32—MARINE SANCTUARIES

Sec.

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1445c-1. Dr. Nancy Foster Scholarship Program.

#### **§1431. Findings, purposes, and policies; establishment of system**

##### **(a) Findings**

The Congress finds that—

(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark;

(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or esthetic qualities which give them special national, and in some cases international, significance;

(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment; and

(4) a Federal program which establishes areas of the marine environment which have special conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities as national marine sanctuaries managed as the National Marine Sanctuary System will—

(A) improve the conservation, understanding, management, and wise and sustainable use of marine resources;

(B) enhance public awareness, understanding, and appreciation of the marine environment; and

(C) maintain for future generations the habitat, and ecological services, of the natural assemblage of living resources that inhabit these areas.

**(b) Purposes and policies**

The purposes and policies of this chapter are—

(1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance and to manage these areas as the National Marine Sanctuary System;

(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;

(3) to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes;

(4) to enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archeological resources of the National Marine Sanctuary System;

(5) to support, promote, and coordinate scientific research on, and long-term monitoring of, the resources of these marine areas;

(6) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

(7) to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

(8) to create models of, and incentives for, ways to conserve and manage these areas, including the application of innovative management techniques; and

(9) to cooperate with global programs encouraging conservation of marine resources.

**(c) Establishment of system**

There is established the National Marine Sanctuary System, which shall consist of national marine sanctuaries designated by the Secretary in accordance with this chapter.

(Pub. L. 92–532, title III, §301, Oct. 23, 1972, 86 Stat. 1061; Pub. L. 96–332, §1, Aug. 29, 1980, 94 Stat. 1057; Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2296; Pub. L. 102–587, title II, §2101, Nov. 4, 1992, 106 Stat. 5039; Pub. L. 104–283, §9(a), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106–513, §3, Nov. 13, 2000, 114 Stat. 2381.)

**Amendments**

**2000**—Pub. L. 106–513, §3(a), inserted “; establishment of system” at end of section catchline.

Subsec. (a)(2). Pub. L. 106–513, §3(b)(1), substituted “scientific, educational, cultural, archeological, or esthetic” for “research, educational, or esthetic”.

Subsec. (a)(3). Pub. L. 106–513, §3(b)(2), inserted “and” at end.

Subsec. (a)(4) to (6). Pub. L. 106–513, §3(b)(3), added par. (4) and struck out former pars. (4) to (6) which read as follows:

“(4) a Federal program which identifies special areas of the marine environment will contribute positively to marine resources conservation, research, and management;

“(5) such a Federal program will also serve to enhance public awareness, understanding, appreciation, and wise use of the marine environment; and

“(6) protection of these special areas can contribute to maintaining a natural assemblage of living resources for future generations.”

Subsec. (b)(1). Pub. L. 106–513, §3(c)(1), substituted “significance and to manage these areas as the National Marine Sanctuary System;” for “significance;”.

Subsec. (b)(3). Pub. L. 106–513, §3(c)(2), (4), added par. (3) and struck out former par. (3) which read as follows: “to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas, especially long-term monitoring and research of these areas;”.

Subsec. (b)(4). Pub. L. 106–513, §3(c)(2), (4), added par. (4) and struck out former par. (4) which read as follows: “to enhance public awareness, understanding, appreciation, and wise use of the marine environment;”.

Subsec. (b)(5) to (7). Pub. L. 106–513, §3(c)(3), (4), added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 106–513, §3(c)(3), (5), redesignated par. (7) as (8) and substituted “areas, including the application of innovative management techniques; and” for “areas;”. Former par. (8) redesignated (9).

Subsec. (b)(9). Pub. L. 106–513, §3(c)(2), (3), (6), redesignated par. (8) as (9), substituted a period for “; and”, and struck out former par. (9) which read as follows: “to maintain, restore, and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate.”

Subsec. (c). Pub. L. 106–513, §3(d), added subsec. (c).

**1996**—Subsec. (b)(2). Pub. L. 104–283 substituted a semicolon for a period at end.

**1992**—Subsec. (a)(2). Pub. L. 102–587, §2101(a)(1), inserted “, and in some cases international,” after “national”.

Subsec. (a)(4). Pub. L. 102–587, §2101(a)(2), inserted “, research,” after “conservation” and struck out “and” at end.

Subsec. (a)(6). Pub. L. 102–587, §2101(a)(3), (4), added par. (6).

Subsec. (b). Pub. L. 102–587, §2101(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The purposes and policies of this chapter are—

(1) to identify areas of the marine environment of special national significance due to their resource or human-use values;

(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas that will complement existing regulatory authorities;

(3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas;

(4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment; and

(5) to facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities.”

**1984**—Pub. L. 98–498 amended section generally, substituting provisions relating to Congressional declaration of findings, purposes and policies for provisions defining “Secretary” and “State”. See section 1432 of this title.

**1980**—Pub. L. 96–332 inserted provisions defining “State”.

#### **Short Title of 2000 Amendment**

Pub. L. 106–513, §1, Nov. 13, 2000, 114 Stat. 2381, provided that: “This Act [enacting section 1445c of this title and amending this section and sections 1432 to 1434, 1436, 1437, and 1439 to 1445b of this title] may be cited as the ‘National Marine Sanctuaries Amendments Act of 2000’.”

#### **Short Title of 1996 Amendment**

Section 1 of Pub. L. 104–283 provided that: “This Act [amending this section and sections 1432, 1434, 1437, 1442, 1443, 1444, 1445a, and 1445b of this title, renumbering provisions set out as a note under section 1442 of this title as section 1445b of this title, enacting provisions set out as notes under this section and sections 1433 and 1445 of this title, and amending provisions set out as a note under section 1433 of this title] may be cited as the ‘National Marine Sanctuaries Preservation Act’.”

#### **Short Title of 1992 Amendment**

Section 1 of Pub. L. 102–587 provided that: “This Act [see Tables for classification] may be cited as the ‘Oceans Act of 1992’.”

Section 2001 of title II of Pub. L. 102–587 provided that: “This title [enacting section 1445a of this title, amending this section and sections 1432 to 1437, 1440, 1442 to 1444, 1452 to 1456b, and 1458 to 1462 of this title, enacting provisions set out as notes under this section and sections 1433, 1442, and 1445 of this title, and amending provisions set



out as a note under section 1433 of this title] may be cited as the ‘National Marine Sanctuaries Program Amendments Act of 1992’.”

### **Short Title of 1984 Amendment**

Section 101 of title I of Pub. L. 98–498 provided that: “This title [enacting sections 1435 to 1439 of this title and amending this section and sections 1432 to 1434 of this title] may be cited as the ‘Marine Sanctuaries Amendments of 1984’.”

### **Short Title**

Section 317 of title III, formerly section 316, of Pub. L. 92–532, as added by Pub. L. 102–587, title II, §2112, Nov. 4, 1992, 106 Stat. 5047; renumbered §317 of title III, Pub. L. 104–283, §§6(a), 9(f), Oct. 11, 1996, 110 Stat. 3364, 3368; amended Pub. L. 106–562, title III, §307(b), Dec. 23, 2000, 114 Stat. 2807, provided that: “This title [enacting this chapter] may be cited as the ‘National Marine Sanctuaries Act’.”

### **Congressional Findings, Policy, and Declaration of Purpose**

For statement of Congressional findings, policy, and declaration of purpose of Pub. L. 92–532 which enacted this chapter and chapter 27 of Title 33, Navigation and Navigable Waters, see section 1401 of Title 33.

### **Environmental Effects Abroad of Major Federal Actions**

For provisions relating to environmental effects abroad of major federal actions, see Ex. Ord. No. 12114, Jan. 4, 1979, 44 F.R. 1957, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

### **Federal Compliance With Pollution Control Standards**

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

### **Prevention, Control, and Abatement of Environmental Pollution at Federal Facilities**

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of Title 42, The Public Health and Welfare, which related to the prevention, control, and abatement of environmental pollution at Federal facilities, was revoked by Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42.

**Ex. Ord. No. 13158. Marine Protected Areas**

Ex. Ord. No. 13158, May 26, 2000, 65 F.R. 34909, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America and in furtherance of the purposes of the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.), National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-ee) [16 U.S.C. 668dd–668ee], National Park Service Organic Act (16 U.S.C. 1 et seq.), National Historic Preservation Act (16 U.S.C. 470 et seq.), Wilderness Act (16 U.S.C. 1131 et seq.), Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), Coastal Zone Management Act [of 1972] (16 U.S.C. 1451 et seq.), Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), Marine Mammal Protection Act [of 1972] (16 U.S.C. 1362 [1361] et seq.), Clean Water Act of 1977 (33 U.S.C. 1251 et seq.), National Environmental Policy Act [of 1969], as amended (42 U.S.C. 4321 et seq.), Outer Continental Shelf Lands Act (42 [43] U.S.C. 1331 et seq.), and other pertinent statutes, it is ordered as follows:

Section 1. Purpose. This Executive Order will help protect the significant natural and cultural resources within the marine environment for the benefit of present and future generations by strengthening and expanding the Nation's system of marine protected areas (MPAs). An expanded and strengthened comprehensive system of marine protected areas throughout the marine environment would enhance the conservation of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for future generations. To this end, the purpose of this order is to, consistent with domestic and international law: (a) strengthen the management, protection, and conservation of existing marine protected areas and establish new or expanded MPAs; (b) develop a scientifically based, comprehensive national system of MPAs representing diverse U.S. marine ecosystems, and the Nation's natural and cultural resources; and (c) avoid causing harm to MPAs through federally conducted, approved, or funded activities.

Sec. 2. Definitions. For the purposes of this order: (a) “Marine protected area” means any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein.

(b) “Marine environment” means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands thereunder, over which the United States exercises jurisdiction, consistent with international law.

(c) The term “United States” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

Sec. 3. MPA Establishment, Protection, and Management. Each Federal agency whose authorities provide for the establishment or management of MPAs shall take appropriate actions to enhance or expand protection of existing MPAs and establish or recommend, as appropriate, new MPAs. Agencies implementing this section shall consult with the agencies identified in subsection 4(a) of this order, consistent with existing requirements.

Sec. 4. National System of MPAs. (a) To the extent permitted by law and subject to the availability of appropriations, the Department of Commerce and the Department of the Interior, in consultation with the Department of Defense, the Department of State, the United States Agency for International Development, the Department of Transportation, the Environmental Protection Agency, the National Science Foundation, and other pertinent Federal agencies shall develop a national system of MPAs. They shall coordinate and share information, tools, and strategies, and provide guidance to enable and encourage the use of the following in the exercise of each agency's respective authorities to further enhance and expand protection of existing MPAs and to establish or recommend new MPAs, as appropriate:

- (1) science-based identification and prioritization of natural and cultural resources for additional protection;
- (2) integrated assessments of ecological linkages among MPAs, including ecological reserves in which consumptive uses of resources are prohibited, to provide synergistic benefits;
- (3) a biological assessment of the minimum area where consumptive uses would be prohibited that is necessary to preserve representative habitats in different geographic areas of the marine environment;
- (4) an assessment of threats and gaps in levels of protection currently afforded to natural and cultural resources, as appropriate;
- (5) practical, science-based criteria and protocols for monitoring and evaluating the effectiveness of MPAs;
- (6) identification of emerging threats and user conflicts affecting MPAs and appropriate, practical, and equitable management solutions, including effective enforcement strategies, to eliminate or reduce such threats and conflicts;
- (7) assessment of the economic effects of the preferred management solutions; and
- (8) identification of opportunities to improve linkages with, and technical assistance to, international marine protected area programs.

(b) In carrying out the requirements of section 4 of this order, the Department of Commerce and the Department of the Interior shall consult with those States that contain portions of the marine environment, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, tribes, Regional Fishery Management Councils, and other entities, as appropriate, to promote coordination of Federal, State, territorial, and tribal actions to establish and manage MPAs.

(c) In carrying out the requirements of this section, the Department of Commerce and the Department of the Interior shall seek the expert advice and recommendations of non-Federal scientists, resource managers, and other interested persons and organizations through a Marine Protected Area Federal Advisory Committee. The Committee shall be established by the Department of Commerce.

(d) The Secretary of Commerce and the Secretary of the Interior shall establish and jointly manage a website for information on MPAs and Federal agency reports required by this order. They shall also publish and maintain a list of MPAs that meet the definition of MPA for the purposes of this order.

(e) The Department of Commerce's National Oceanic and Atmospheric Administration shall establish a Marine Protected Area Center to carry out, in cooperation with the Department of the Interior, the requirements of subsection 4(a) of this order, coordinate the website established pursuant to subsection 4(d) of this order, and partner with governmental and nongovernmental entities to conduct necessary research, analysis, and exploration. The goal of the MPA Center shall be, in cooperation with the Department of the Interior, to develop a framework for a national system of MPAs, and to provide Federal, State, territorial, tribal, and local governments with the information, technologies, and strategies to support the system. This national system framework and the work of the MPA Center is intended to support, not interfere with, agencies' independent exercise of their own existing authorities.

(f) To better protect beaches, coasts, and the marine environment from pollution, the Environmental Protection Agency (EPA), relying upon existing Clean Water Act [33 U.S.C. 1251 et seq.] authorities, shall expeditiously propose new science-based regulations, as necessary, to ensure appropriate levels of protection for the marine environment. Such regulations may include the identification of areas that warrant additional pollution protections and the enhancement of marine water quality standards. The EPA shall consult with the Federal agencies identified in subsection 4(a) of this order, States, territories, tribes, and the public in the development of such new regulations.

Sec. 5. Agency Responsibilities. Each Federal agency whose actions affect the natural or cultural resources that are protected by an MPA shall identify such actions. To the extent permitted by law and to the maximum extent practicable, each Federal agency, in taking

such actions, shall avoid harm to the natural and cultural resources that are protected by an MPA. In implementing this section, each Federal agency shall refer to the MPAs identified under subsection 4(d) of this order.

Sec. 6. Accountability. Each Federal agency that is required to take actions under this order shall prepare and make public annually a concise description of actions taken by it in the previous year to implement the order, including a description of written comments by any person or organization stating that the agency has not complied with this order and a response to such comments by the agency.

Sec. 7. International Law. Federal agencies taking actions pursuant to this Executive Order must act in accordance with international law and with Presidential Proclamation 5928 of December 27, 1988, on the Territorial Sea of the United States of America [43 U.S.C. 1331 note], Presidential Proclamation 5030 of March 10, 1983, on the Exclusive Economic Zone of the United States of America [16 U.S.C. 1453 note], and Presidential Proclamation 7219 of September 2, 1999, on the Contiguous Zone of the United States [43 U.S.C. 1331 note].

Sec. 8. General. (a) Nothing in this order shall be construed as altering existing authorities regarding the establishment of Federal MPAs in areas of the marine environment subject to the jurisdiction and control of States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and Indian tribes.

(b) This order does not diminish, affect, or abrogate Indian treaty rights or United States trust responsibilities to Indian tribes.

(c) This order does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its agencies, its officers, or any person.

William J. Clinton.

### **§1432. Definitions**

As used in this chapter, the term—

(1) “draft management plan” means the plan described in section 1434(a)(1)(C)(v)<sup>1</sup> of this title;

(2) “Magnuson-Stevens Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(3) “marine environment” means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law;

(4) “Secretary” means the Secretary of Commerce;

(5) “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States;

(6) “damages” includes—

(A) compensation for—

(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and

(II) the value of the lost use of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or

(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired;

(B) the cost of damage assessments under section 1443(b)(2) of this title;

(C) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

(D) the cost of curation and conservation of archeological, historical, and cultural sanctuary resources; and

(E) the cost of enforcement actions undertaken by the Secretary in response to the destruction or loss of, or injury to, a sanctuary resource;

(7) “response costs” means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 1443 of this title;

(8) “sanctuary resource” means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, educational, cultural, archeological, scientific, or aesthetic value of the sanctuary; and

(9) “exclusive economic zone” means the exclusive economic zone as defined in the Magnuson-Stevens Act; and

(10) “System” means the National Marine Sanctuary System established by section 1431 of this title.

(Pub. L. 92–532, title III, §302, Oct. 23, 1972, 86 Stat. 1061; Pub. L. 96–332, §2, Aug. 29, 1980, 94 Stat. 1057; Pub. L. 97–375, title II, §202(a), Dec. 21, 1982, 96 Stat. 1822; Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2297; Pub. L. 100–627, title II, §204(b), Nov. 7, 1988, 102 Stat. 3217; Pub. L. 102–587, title II, §2102, Nov. 4, 1992, 106 Stat. 5040; Pub. L. 104–283, §9(b), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106–513, §4, 19(b)(1), (2), Nov. 13, 2000, 114 Stat. 2382, 2392, 2393.)

### References in Text

Section 1434(a)(1)(C) of this title, referred to in par. (1), was amended generally by Pub. L. 106–513, §6(a), Nov. 13, 2000, 114 Stat. 2383, and, as so amended, no longer contains a cl. (v).

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in par. (2), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

### Amendments

**2000**—Par. (2). Pub. L. 106–513, §19(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “ ‘Magnuson Act’ means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);”.

Par. (6)(D), (E). Pub. L. 106–513, §4(a), added subpars. (D) and (E).

Par. (7). Pub. L. 106–513, §4(b), inserted “, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 1443 of this title” after “loss, or injury”.

Par. (8). Pub. L. 106–513, §4(c), substituted “educational, cultural, archeological, scientific,” for “research, educational.”.

Par. (9). Pub. L. 106–513, §19(b)(2), substituted “Magnuson-Stevens Act” for “Magnuson Fishery Conservation and Management Act”.

Par. (10). Pub. L. 106–513, §4(d), added par. (10).

**1996**—Par. (6)(C). Pub. L. 104–283, §9(b)(1), which directed substitution of a semicolon for “, and” at end, was executed by substituting a semicolon for the comma at end to reflect the probable intent of Congress.

Par. (7). Pub. L. 104–283, §9(b)(2), struck out “and” after “injury;”.

**1992**—Par. (1). Pub. L. 102–587, §2102(e)(1), substituted “1434(a)(1)(C)(v)” for “1434(a)(1)(E)”.

Par. (3). Pub. L. 102–587, §2102(a), inserted “including the exclusive economic zone,” after “jurisdiction,”.

Par. (5). Pub. L. 102–587, §2102(e)(2), struck out “and” at end.

Par. (6)(C). Pub. L. 102–587, §2102(b), added subpar. (C).

Par. (7). Pub. L. 102–587, §2102(c), inserted “or authorized” after “taken”.

Par. (9). Pub. L. 102–587, §2102(d), added par. (9).

**1988**—Pars. (6) to (8). Pub. L. 100–627 added pars. (6) to (8).

**1984**—Pub. L. 98–498 amended section generally, substituting provisions which set forth definitions for provisions which related to the designation of sanctuaries. See section 1433 of this title.

**1982**—Subsec. (d). Pub. L. 97–375 substituted provision that Secretary submit a biennial report on or before March 1 of every other year beginning in 1984 for provision that Secretary submit an annual report on or before November 1 of each year, and substituted reference to previous two fiscal years for reference to previous fiscal year.

**1980**—Subsec. (b). Pub. L. 96–332, §2(1), designated existing provisions as par. (1), struck out provision that a designation under this section would become effective sixty days after it was published unless the Governor of any State involved, before the expiration of the sixty-day period, certified to Secretary that the designation, or a specified portion thereof, was unacceptable to his State, in which case the designated sanctuary would not include the area certified as unacceptable until such time as the Governor withdrew his certification of unacceptability, and added par. (2).

Subsec. (f). Pub. L. 96–332, §2(2), designated existing provisions as par. (2), added pars. (1), (3), and (4), and, in par. (2) as so designated, substituted “The Secretary, after consultation with other interested Federal and State agencies, shall issue necessary and reasonable regulations to implement the terms of the designation and control the activities described in it, except that all permits, licenses, and other authorizations issued



pursuant to any other authority shall be valid unless such regulations otherwise provide” for “After a marine sanctuary has been designated under this section, the Secretary, after consultation with other interested Federal agencies, shall issue necessary and reasonable regulations to control any activities permitted within the designated marine sanctuary, and no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes of this chapter and can be carried out within the regulations promulgated under this section”.

Subsec. (h). Pub. L. 96–332, §2(3), added subsec. (h).

### **Regulations**

Section 210 of title II of Pub. L. 100–627 provided that: Not later than one year after the date of the enactment of this Act [Nov. 7, 1988], the Secretary of Commerce—

(1) shall propose regulations implementing the amendments made by this title [enacting sections 1440 to 1445 of this title, amending sections 1432, 1434, and 1437 of this title, and repealing section 1438 of this title]; and

(2) shall issue final regulations implementing the amendments made by the Marine Sanctuaries Amendments of 1984 [enacting sections 1435 to 1439 of this title and amending sections 1431 to 1434 of this title].

### **Additional Definitions**

Section 3 of Pub. L. 92–532, which is classified to section 1402 of Title 33, Navigation and Navigable Waters, defines for purposes of this chapter the terms “Administrator”, “Ocean waters”, “Material”, “United States”, “Person”, “Dumping”, “District Court of the United States”, “Dredged material”, “High-level radioactive waste”, and “Transport” or “Transportation”.

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

### **§1433. Sanctuary designation standards**

#### **(a) Standards**

The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if the Secretary determines that—

(1) the designation will fulfill the purposes and policies of this chapter;

(2) the area is of special national significance due to—

(A) its conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, or esthetic qualities;

(B) the communities of living marine resources it harbors; or

(C) its resource or human-use values;

(3) existing State and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(4) designation of the area as a national marine sanctuary will facilitate the objectives stated in paragraph (3); and

(5) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

**(b) Factors and consultations required in making determinations and findings**

**(1) Factors**

For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a) of this section, the Secretary shall consider—

(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, maintenance of critical habitat of endangered species, and the biogeographic representation of the site;

(B) the area's historical, cultural, archaeological, or paleontological significance;

(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this chapter;

(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development;

(I) the socioeconomic effects of sanctuary designation;

(J) the area's scientific value and value for monitoring the resources and natural processes that occur there;

(K) the feasibility, where appropriate, of employing innovative management approaches to protect sanctuary resources or to manage compatible uses; and

(L) the value of the area as an addition to the System.

## **(2) Consultation**

In making determinations and findings, the Secretary shall consult with—

(A) the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Secretaries of State, Defense, Transportation, and the Interior, the Administrator, and the heads of other interested Federal agencies;

(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson-Stevens Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

(E) other interested persons.

(Pub. L. 92-532, title III, §303, Oct. 23, 1972, 86 Stat. 1062; Pub. L. 98-498, title I, §102, Oct. 19, 1984, 98 Stat. 2297; Pub. L. 102-587, title II, §2103, Nov. 4, 1992, 106

Stat. 5041; Pub. L. 106–513, §§5, 19(a)(1), (b)(3), Nov. 13, 2000, 114 Stat. 2383, 2392, 2393; Pub. L. 106–555, title II, §205(a), Dec. 21, 2000, 114 Stat. 2769.)

### **Amendments**

**2000**—Subsec. (a). Pub. L. 106–555, in introductory provisions, substituted “the Secretary determines that—” for “the Secretary—”, added pars. (1) to (5), and struck out former pars. (1) and (2) which read as follows:

(1) determines that—

(A) the designation will fulfill the purposes and policies of this chapter;

(B) the area is of special national significance due to—

(i) its conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities;

(ii) the communities of living marine resources it harbors; or

(iii) its resource or human-use values;

(C) existing State and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(D) designation of the area as a national marine sanctuary will facilitate the objectives in subparagraph (C); and

(E) the area is of a size and nature that will permit comprehensive and coordinated conservation and management; and

(2) finds that—

(A) the area is of special national significance due to its resource or human-use values;

(B) existing State and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(C) designation of the area as a national marine sanctuary will facilitate the objectives in subparagraph (B); and

(D) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

Subsec. (a)(1). Pub. L. 106–513, §5(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “determines that the designation will fulfill the purposes and policies of this chapter; and”.

Subsec. (b)(1)(J) to (L). Pub. L. 106–513, §5(b)(1), added subpars. (J) to (L).

Subsec. (b)(2)(A). Pub. L. 106–513, §19(a)(1), substituted “Resources” for “Merchant Marine and Fisheries”.

Subsec. (b)(2)(D). Pub. L. 106–513, §19(b)(3), substituted “Magnuson-Stevens Act” for “Magnuson Act”.

Subsec. (b)(3). Pub. L. 106–513, §5(b)(2), struck out heading and text of par. (3). Prior to amendment, text read as follows: “In making determinations and findings, the Secretary shall draft, as part of the environmental impact statement referred to in section 1434(a)(2) of this title, a resource assessment report documenting present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses. The Secretary, in consultation with the Secretary of the Interior, shall draft a resource assessment section for the report regarding any commercial, governmental, or recreational resource uses in the area under consideration that are subject to the primary jurisdiction of the Department of the Interior. The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft a resource assessment section for the report, including information on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations.”

**1992**—Subsec. (a)(2)(B). Pub. L. 102–587, §2103(a), inserted “or should be supplemented” after “inadequate”.

Subsec. (b)(1)(A). Pub. L. 102–587, §2103(b)(1), inserted “maintenance of critical habitat of endangered species,” after “assemblages,”.

Subsec. (b)(3). Pub. L. 102–587, §2103(b)(2), substituted “1434(a)(2)” for “1434(a)(1)”, inserted “, governmental,” after “other commercial” and after “any commercial”, and inserted at end: “The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft a resource assessment section for the report, including information on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations.”

**1984**—Pub. L. 98–498 amended section generally, substituting provisions relating to sanctuary designation standards for provisions relating to penalties. See section 1437(b) of this title.

### **Change of Name**

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

### **Effective Date of 2000 Amendment**

Pub. L. 106–555, title II, §205(c), Dec. 21, 2000, 114 Stat. 2770, provided that: “This section [amending this section and section 1434 of this title] shall take effect immediately after the National Marine Sanctuaries Amendments Act of 2000 [Pub. L. 106–513] takes effect.”

### **Marine Sanctuaries**

Channel Islands National Marine Sanctuary.—45 F.R. 65198, Oct. 2, 1980; 15 C.F.R. part 922, subpart G.

Cordell Bank National Marine Sanctuary.—54 F.R. 22417, May 24, 1989; 15 C.F.R. part 922, subpart K; Pub. L. 100–627, title II, §205(a)(1), Nov. 7, 1988, 102 Stat. 3217.

Fagatele Bay National Marine Sanctuary.—51 F.R. 15878, Apr. 29, 1986; 15 C.F.R. part 922, subpart J.

Florida Keys National Marine Sanctuary.—15 C.F.R. part 922, subpart P; Pub. L. 101–605, Nov. 16, 1990, 104 Stat. 3089, as amended by Pub. L. 102–587, title II, §§2206, 2209, Nov. 4, 1992, 106 Stat. 5053, 5054.

Flower Garden Banks National Marine Sanctuary.—56 F.R. 63634, Dec. 5, 1991; 60 F.R. 10312, Feb. 24, 1995; 15 C.F.R. part 922, subpart L; Pub. L. 100–627, title II, §205(a)(2), Nov. 7, 1988, 102 Stat. 3217; Pub. L. 102–251, title I, §101, Mar. 9, 1992, 106 Stat. 60; Pub. L. 104–283, §8, Oct. 11, 1996, 110 Stat. 3366.

Gerry E. Studds Stellwagen Bank National Marine Sanctuary (former Stellwagen Bank National Marine Sanctuary).—58 F.R. 53865, Oct. 19, 1993; 59 F.R. 53348, Oct. 24, 1994; 15 C.F.R. 922, subpart N; Pub. L. 102–587, title II, §2202, Nov. 4, 1992, 106 Stat. 5048; Pub. L. 104–283, §§9(g), 11, Oct. 11, 1996, 110 Stat. 3368, 3369.

Gray's Reef National Marine Sanctuary.—46 F.R. 7942, Jan. 26, 1981; 15 C.F.R. part 922, subpart I.

Gulf of the Farallones National Marine Sanctuary (former Point Reyes-Farallon Islands National Marine Sanctuary).—46 F.R. 7936, Jan. 26, 1981; 15 C.F.R. part 922, subpart H; 62 F.R. 3788, Jan. 27, 1997.

Hawaiian Islands Humpback Whale National Marine Sanctuary.—15 C.F.R. part 922, subpart Q; Pub. L. 102–587, title II, subtitle C, §§2301–2308, Nov. 4, 1992, 106 Stat.

5055–5059; Pub. L. 104–283, §7, Oct. 11, 1996, 110 Stat. 3365.

MONITOR National Marine Sanctuary.—40 F.R. 5349, Feb. 5, 1975; 40 F.R. 21706, May 19, 1975; 15 C.F.R. part 922, subpart F.

Monterey Bay National Marine Sanctuary.—57 F.R. 43310, Sept. 18, 1992; 15 C.F.R. part 922, subpart M; Pub. L. 100–627, title II, §205(a)(3), Nov. 7, 1988, 102 Stat. 3217; Pub. L. 102–368, title I, §102, Sept. 23, 1992, 106 Stat. 1119; Pub. L. 102–587, title II, §2203, Nov. 4, 1992, 106 Stat. 5048.

Olympic Coast National Marine Sanctuary.—59 F.R. 24586, May 11, 1994; 15 C.F.R. 922, subpart O; Pub. L. 100–627, title II, §205(a)(4), Nov. 7, 1988, 102 Stat. 3217; Pub. L. 102–587, title II, §2207, Nov. 4, 1992, 106 Stat. 5053.

Thunder Bay National Marine Sanctuary and Underwater Preserve.—65 F.R. 39042, June 19, 2000; 15 C.F.R. part 922, subpart R.

### **Northwest Straits**

Pub. L. 104–283, §10, Oct. 11, 1996, 110 Stat. 3368, provided that: “No designation of an area in the Northwest Straits in the State of Washington as a national marine sanctuary under the National Marine Sanctuaries Act [16 U.S.C. 1431 et seq.] shall take effect unless that designation is specifically authorized by a law enacted after the date of enactment of this Act [Oct. 11, 1996].”

### **§1434. Procedures for designation and implementation**

#### **(a) Sanctuary proposal**

##### **(1) Notice**

In proposing to designate a national marine sanctuary, the Secretary shall—

(A) issue, in the Federal Register, a notice of the proposal, proposed regulations that may be necessary and reasonable to implement the proposal, and a summary of the draft management plan;

(B) provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal; and

(C) no later than the day on which the notice required under subparagraph (A) is submitted to the Office of the Federal Register, submit a copy of that notice and the draft sanctuary designation documents prepared pursuant to paragraph (2), including an executive summary, to the Committee on Resources of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Governor of each State in which any part of the proposed sanctuary would be located.

**(2) Sanctuary designation documents**

The Secretary shall prepare and make available to the public sanctuary designation documents on the proposal that include the following:

(A) A draft environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) A resource assessment that documents—

(i) present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses;

(ii) after consultation with the Secretary of the Interior, any commercial, governmental, or recreational resource uses in the areas that are subject to the primary jurisdiction of the Department of the Interior; and

(iii) information prepared in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary.

Public disclosure by the Secretary of such information shall be consistent with national security regulations.

(C) A draft management plan for the proposed national marine sanctuary that includes the following:

(i) The terms of the proposed designation.

(ii) Proposed mechanisms to coordinate existing regulatory and management authorities within the area.

(iii) The proposed goals and objectives, management responsibilities, resource studies, and appropriate strategies for managing sanctuary resources of the proposed sanctuary, including interpretation and education, innovative management strategies, research, monitoring and assessment, resource protection, restoration, enforcement, and surveillance activities.

(iv) An evaluation of the advantages of cooperative State and Federal management if all or part of the proposed sanctuary is within the territorial limits of any State or is superjacent to the subsoil and seabed within the seaward boundary of a State, as that boundary is established under the Submerged Lands Act (43 U.S.C. 1301 et seq.).



(v) An estimate of the annual cost to the Federal Government of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education.

(vi) The proposed regulations referred to in paragraph (1)(A).

(D) Maps depicting the boundaries of the proposed sanctuary.

(E) The basis for the determinations made under section 1433(a) of this title with respect to the area.

(F) An assessment of the considerations under section 1433(b)(1) of this title.

### **(3) Public hearing**

No sooner than thirty days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that will be most affected by the proposed designation of the area as a national marine sanctuary for the purpose of receiving the views of interested parties.

### **(4) Terms of designation**

The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

### **(5) Fishing regulations**

The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is

rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations. The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.

#### **(6) Committee action**

After receiving the documents under subsection (a)(1)(C) of this section, the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the documents. If within the forty-five day period of continuous session of Congress beginning on the date of submission of the documents, either Committee issues a report concerning matters addressed in the documents, the Secretary shall consider this report before publishing a notice to designate the national marine sanctuary.

#### **(b) Taking effect of designations**

##### **(1) Notice**

In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. The Secretary shall issue a notice of designation with respect to a proposed national marine sanctuary site not later than 30 months after the date a notice declaring the site to be an active candidate for sanctuary designation is published in the Federal Register under regulations issued under this Act, or shall publish not later than such date in the Federal Register findings regarding why such notice has not been published. No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(6) of this section. The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published unless, in the case of a national marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.

##### **(2) Withdrawal of designation**

If the Secretary considers that actions taken under paragraph (1) will affect the designation of a national marine sanctuary in a manner that the goals and objectives of the sanctuary or System cannot be fulfilled, the Secretary may withdraw the entire designation. If the Secretary does not withdraw the designation, only those terms of the designation not certified under paragraph (1) shall take effect.

### **(3) Procedures**

In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(6) of this section and paragraph (1) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded.

### **(c) Access and valid rights**

(1) Nothing in this chapter shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.

(2) The exercise of a lease, permit, license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

### **(d) Interagency cooperation**

#### **(1) Review of agency actions**

##### **(A) In general**

Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

##### **(B) Agency statements required**

Subject to any regulations the Secretary may establish each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless such Federal agency and the Secretary agree to a different schedule.

**(2) Secretary's recommended alternatives**

If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

**(3) Response to recommendations**

The agency head who receives the Secretary's recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

**(4) Failure to follow alternative**

If the head of a Federal agency takes an action other than an alternative recommended by the Secretary and such action results in the destruction of, loss of, or injury to a sanctuary resource, the head of the agency shall promptly prevent and mitigate further damage and restore or replace the sanctuary resource in a manner approved by the Secretary.

**(e) Review of management plans**

Not more than five years after the date of designation of any national marine sanctuary, and thereafter at intervals not exceeding five years, the Secretary shall evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques and strategies, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this chapter. This review shall include a prioritization of management objectives.

**(f) Limitation on designation of new sanctuaries****(1) Finding required**

The Secretary may not publish in the Federal Register any sanctuary designation notice or regulations proposing to designate a new sanctuary, unless the Secretary has published a finding that—

(A) the addition of a new sanctuary will not have a negative impact on the System; and

(B) sufficient resources were available in the fiscal year in which the finding is made to—

(i) effectively implement sanctuary management plans for each sanctuary in the System; and

(ii) complete site characterization studies and inventory known sanctuary resources, including cultural resources, for each sanctuary in the System within 10 years after the date that the finding is made if the resources available for those activities are maintained at the same level for each fiscal year in that 10 year period.

## **(2) Deadline**

If the Secretary does not submit the findings required by paragraph (1) before February 1, 2004, the Secretary shall submit to the Congress before October 1, 2004, a finding with respect to whether the requirements of subparagraphs (A) and (B) of paragraph (1) have been met by all existing sanctuaries.

## **(3) Limitation on application**

Paragraph (1) does not apply to any sanctuary designation documents for—

(A) a Thunder Bay National Marine Sanctuary; or

(B) a Northwestern Hawaiian Islands National Marine Sanctuary.

(Pub. L. 92–532, title III, §304, Oct. 23, 1972, 86 Stat. 1063; Pub. L. 94–62, §4, July 25, 1975, 89 Stat. 303; Pub. L. 94–326, §4, June 30, 1976, 90 Stat. 725; Pub. L. 95–153, §3, Nov. 4, 1977, 91 Stat. 1255; Pub. L. 96–332, §3, Aug. 29, 1980, 94 Stat. 1059; Pub. L. 97–109, Dec. 26, 1981, 95 Stat. 1512; Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2298; Pub. L. 100–627, title II, §202, Nov. 7, 1988, 102 Stat. 3214; Pub. L. 102–587, title II, §2104, Nov. 4, 1992, 106 Stat. 5041; Pub. L. 104–283, §9(h), Oct. 11, 1996, 110 Stat. 3368; Pub. L. 106–513, §§6(a)–(f), 19(a)(2), (b)(4), Nov. 13, 2000, 114 Stat. 2383–2385, 2392, 2393; Pub. L. 106–555, title II, §205(b), Dec. 21, 2000, 114 Stat. 2769; Pub. L. 106–562, title III, §307(a), Dec. 23, 2000, 114 Stat. 2807.)

## **References in Text**

The National Environmental Policy Act of 1969, referred to in subsec. (a)(2)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Submerged Lands Act, referred to in subsec. (a)(2)(C)(iv), is act May 22, 1953, ch. 65, 67 Stat. 29, as amended, which is classified generally to subchapters I and II (§§1301 et seq., 1311 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43, and Tables.

This Act, referred to in subsec. (b)(1), means Pub. L. 92-532, which enacted this chapter, chapter 32A (§1447 et seq.) of this title, and chapters 27 (§1401 et seq.) and 41 (§2801 et seq.) of Title 33, Navigation and Navigable Waters.

### **Amendments**

**2000**—Subsec. (a)(1)(C). Pub. L. 106-555, §205(b)(1), struck out “the Secretary shall” before “submit a copy”.

Pub. L. 106-513, §6(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) required the Secretary to submit certain documents to committees of the House and Senate.

Subsec. (a)(2). Pub. L. 106-513, §6(b), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “The Secretary shall—

“(A) prepare a draft environmental impact statement, as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), on the proposal that includes the resource assessment report required under section 1433(b)(3) of this title, maps depicting the boundaries of the proposed designated area, and the existing and potential uses and resources of the area; and

“(B) make copies of the draft environmental impact statement available to the public.”

Subsec. (a)(2)(E). Pub. L. 106-555, §205(b)(2), substituted “determinations” for “findings”.

Subsec. (a)(5). Pub. L. 106-513, §19(b)(4), substituted “Magnuson-Stevens Act” for “Magnuson Act”.

Subsec. (a)(6). Pub. L. 106-513, §19(a)(2), substituted “Resources” for “Merchant Marine and Fisheries”.

Subsec. (b)(2). Pub. L. 106-513, §6(c), inserted “or System” after “of the sanctuary”.

Subsec. (d)(4). Pub. L. 106-513, §6(d), added par. (4).

Subsec. (e). Pub. L. 106–513, §6(e), substituted “management techniques and strategies,” for “management techniques,” and inserted at end “This review shall include a prioritization of management objectives.”

Subsec. (f). Pub. L. 106–513, §6(f), added subsec. (f).

Subsec. (f)(2). Pub. L. 106–562 substituted “subparagraphs (A) and (B) of paragraph (1)” for “paragraph (2)”.

**1996**—Subsec. (b)(3). Pub. L. 104–283 struck out “(A)” before “In computing the forty-five-day”, redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, adjusted margins, and struck out former subpars. (B) and (C) which read as follows:

“(B) When the committee to which a joint resolution has been referred has reported such a resolution, it shall at any time thereafter be in order to move to proceed to the consideration of the resolution. The motion shall be privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

“(C) This subsection is enacted by Congress as an exercise of the rulemaking power of each House of Congress, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the case of resolutions described in this subsection. This subsection supersedes other rules only to the extent that they are inconsistent therewith, and is enacted with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.”

**1992**—Subsec. (a)(1)(C). Pub. L. 102–587, §2104(a)(2), substituted “documents, including an executive summary, consisting of—” for “a prospectus on the proposal which shall contain—”.

Subsec. (a)(5). Pub. L. 102–587, §2104(a)(3), substituted “Exclusive Economic Zone” for “United States Fishery Conservation Zone” and inserted at end “The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.”

Subsec. (a)(6). Pub. L. 102–587, §2104(a)(1), substituted “documents” for “prospectus” wherever appearing.

Subsec. (b)(1). Pub. L. 102–587, §2104(b)(1), substituted at end “, in the case of a national marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the

designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.” for the dash after “unless” and subpars. (A) and (B) which read as follows:

“(A) the designation or any of its terms is disapproved by enactment of a joint resolution of disapproval described in paragraph (3); or

“(B) in the case of a natural marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.”

Subsec. (b)(2). Pub. L. 102–587, §2104(b)(2), substituted “actions taken under paragraph (1)” for “actions taken under paragraph (1)(A) or (B)” and “terms of the designation not certified under paragraph (1)” for “terms of the designation not disapproved under paragraph (1)(A) or not certified under paragraph (1)(B)”.

Subsec. (b)(3), (4). Pub. L. 102–587, §2104(b)(3), redesignated par. (4) as (3) and struck out former par. (3) which defined a Congressional resolution of disapproval for purposes of this subsection.

Subsec. (c)(1). Pub. L. 102–587, §2104(c), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Nothing in this chapter shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access if the lease, permit, license, or right—

“(A) was in existence on October 19, 1984, with respect to any national marine sanctuary designated before that date; or

“(B) is in existence on the date of designation of any national marine sanctuary, with respect to any national marine sanctuary designated after October 19, 1984.”

Subsecs. (d), (e). Pub. L. 102–587, §2104(d), added subsecs. (d) and (e).

**1988**—Subsec. (b)(1). Pub. L. 100–627 inserted requirement that notice be published in the Federal Register of proposed marine sanctuary site designation within 30 months after notice of active candidacy of site for sanctuary designation or that within such period findings be published why notice has not been published.

**1984**—Pub. L. 98–498 amended section generally, substituting provisions relating to procedures for designation and implementation of a marine sanctuary for provisions relating to authorization of appropriations. See section 1438 of this title.



**1981**—Pub. L. 97–109 inserted provisions authorizing appropriations of not to exceed \$2,235,000 for fiscal year 1982, and not to exceed \$2,235,000 for fiscal year 1983.

**1980**—Pub. L. 96–332 inserted provisions authorizing appropriations of not to exceed \$2,250,000 for fiscal year 1981.

**1977**—Pub. L. 95–153 inserted provision authorizing appropriations not to exceed \$500,000 for fiscal year 1978.

**1976**—Pub. L. 94–326 inserted provision authorizing to be appropriated not to exceed \$500,000 for fiscal year 1977.

**1975**—Pub. L. 94–62 substituted provisions authorizing to be appropriated not to exceed \$10,000,000 for each of fiscal years 1973, 1974, and 1975, for provisions authorizing to be appropriated for fiscal year in which this Act was enacted and for next two fiscal years thereafter not to exceed \$10,000,000 for each such fiscal year, and inserted provisions authorizing to be appropriated not to exceed \$6,200,000 for fiscal year 1976, and not to exceed \$1,550,000 for the transition period (July 1, through Sept. 30, 1976).

### **Change of Name**

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

### **Effective Date of 2000 Amendments**

Pub. L. 106–562, title III, §307(c), Dec. 23, 2000, 114 Stat. 2807, provided that: “Subsection (a) [amending this section] shall take effect January 1, 2001.”

Amendment by Pub. L. 106–555 effective immediately after the National Marine Sanctuaries Amendments Act of 2000, Pub. L. 106–513, takes effect, see section 205(c) of Pub. L. 106–555, set out as a note under section 1433 of this title.

## **§1435. Application of regulations; international negotiations and cooperation**

### **(a) Regulations**

This chapter and the regulations issued under section 1434 of this title shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States, unless in accordance with—

- (1) generally recognized principles of international law;
- (2) an agreement between the United States and the foreign state of which the person is a citizen; or
- (3) an agreement between the United States and the flag state of a foreign vessel, if the person is a crewmember of the vessel.

**(b) Negotiations**

The Secretary of State, in consultation with the Secretary, shall take appropriate action to enter into negotiations with other governments to make necessary arrangements for the protection of any national marine sanctuary and to promote the purposes for which the sanctuary is established.

**(c) International cooperation**

The Secretary, in consultation with the Secretary of State and other appropriate Federal agencies, shall cooperate with other governments and international organizations in furtherance of the purposes and policies of this chapter and consistent with applicable regional and multilateral<sup>1</sup> arrangements for the protection and management of special marine areas.

(Pub. L. 92–532, title III, §305, as added Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2302; amended Pub. L. 102–587, title II, §2105, Nov. 4, 1992, 106 Stat. 5043.)

**Amendments**

**1992**—Pub. L. 102–587, §2105(b), substituted “; international negotiations and cooperation” for “and international negotiations” in section catchline.

Subsec. (a). Pub. L. 102–587, §2105(a)(1), substituted “This chapter and the regulations” for “The regulations” and inserted “or be enforced against” after “apply to”.

Subsec. (c). Pub. L. 102–587, §2105(a)(2), added subsec. (c).

**International Cooperation**

For direction that the Secretary of State seek effective international action and cooperation through the development of appropriate international rules and regulations in support of the policy of this chapter and chapter 27 of Title 33, Navigation and Navigable Waters, see section 1419 of Title 33.

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

### **§1436. Prohibited activities**

It is unlawful for any person to—

(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

(2) possess, sell, offer for sale, purchase, import, export, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

(3) interfere with the enforcement of this chapter by—

(A) refusing to permit any officer authorized to enforce this chapter to board a vessel, other than a vessel operated by the Department of Defense or United States Coast Guard, subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this chapter;

(B) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this chapter or any such authorized officer in the conduct of any search or inspection performed under this chapter; or

(C) knowingly and willfully submitting false information to the Secretary or any officer authorized to enforce this chapter in connection with any search or inspection conducted under this chapter; or

(4) violate any provision of this chapter or any regulation or permit issued pursuant to this chapter.

(Pub. L. 92–532, title III, §306, as added Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2302; amended Pub. L. 102–587, title II, §2106, Nov. 4, 1992, 106 Stat. 5043; Pub. L. 106–513, §7, Nov. 13, 2000, 114 Stat. 2386.)

### **Amendments**

**2000**—Pub. L. 106–513, §7(1), inserted “for any person” after “unlawful” in introductory provision.

Par. (2). Pub. L. 106–513, §7(2), inserted “offer for sale, purchase, import, export,” after “sell.”

Par. (3). Pub. L. 106–513, §7(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “interfere with the enforcement of this chapter; or”.

**1992**—Pub. L. 102–587 amended section generally. Prior to amendment, section read as follows: “The Secretary shall conduct research and educational programs as are necessary and reasonable to carry out the purposes and policies of this chapter.”

### **Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### **§1437. Enforcement**

#### **(a) In general**

The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this chapter.

#### **(b) Powers of authorized officers**

Any person who is authorized to enforce this chapter may—

- (1) board, search, inspect, and seize any vessel suspected of being used to violate this chapter or any regulation or permit issued under this chapter and any equipment, stores, and cargo of such vessel;
- (2) seize wherever found any sanctuary resource taken or retained in violation of this chapter or any regulation or permit issued under this chapter;
- (3) seize any evidence of a violation of this chapter or of any regulation or permit issued under this chapter;
- (4) execute any warrant or other process issued by any court of competent jurisdiction;
- (5) exercise any other lawful authority; and
- (6) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 1436(3) of this title.

#### **(c) Criminal offenses**

##### **(1) Offenses**

A person is guilty of an offense under this subsection if the person commits any act prohibited by section 1436(3) of this title.

**(2) Punishment**

Any person that is guilty of an offense under this subsection—

(A) except as provided in subparagraph (B), shall be fined under title 18, imprisoned for not more than 6 months, or both; or

(B) in the case of a person who in the commission of such an offense uses a dangerous weapon, engages in conduct that causes bodily injury to any person authorized to enforce this chapter or any person authorized to implement the provisions of this chapter, or places any such person in fear of imminent bodily injury, shall be fined under title 18, imprisoned for not more than 10 years, or both.

**(d) Civil penalties**

**(1) Civil penalty**

Any person subject to the jurisdiction of the United States who violates this chapter or any regulation or permit issued under this chapter shall be liable to the United States for a civil penalty of not more than \$100,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

**(2) Notice**

No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

**(3) In rem jurisdiction**

A vessel used in violating this chapter or any regulation or permit issued under this chapter shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

**(4) Review of civil penalty**

Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order.

**(5) Collection of penalties**

If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

#### **(6) Compromise or other action by Secretary**

The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.

#### **(e) Forfeiture**

##### **(1) In general**

Any vessel (including the vessel's equipment, stores, and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this chapter or of any regulation or permit issued under this chapter shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection. The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 1443 of this title. None of those proceeds shall be subject to set-off.

##### **(2) Application of the customs laws**

The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this chapter.

##### **(3) Disposal of sanctuary resources**

Any sanctuary resource seized pursuant to this chapter may be disposed of pursuant to an order of the appropriate court, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.

##### **(4) Presumption**

For the purposes of this section there is a rebuttable presumption that all sanctuary resources found on board a vessel that is used or seized in connection with a violation of

this chapter or of any regulation or permit issued under this chapter were taken or retained in violation of this chapter or of a regulation or permit issued under this chapter.

**(f) Payment of storage, care, and other costs**

**(1) Expenditures**

(A) Notwithstanding any other law, amounts received by the United States as civil penalties, forfeitures of property, and costs imposed under paragraph (2) shall be retained by the Secretary in the manner provided for in section 9607(f)(1) of title 42.

(B) Amounts received under this section for forfeitures and costs imposed under paragraph (2) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any sanctuary resource or other property seized in connection with a violation of this chapter or any regulation or permit issued under this chapter.

(C) Amounts received under this section as civil penalties and any amounts remaining after the operation of subparagraph (B) shall be used, in order of priority, to—

(i) manage and improve the national marine sanctuary with respect to which the violation occurred that resulted in the penalty or forfeiture;

(ii) pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this chapter or any regulation or permit issued under this chapter; and

(iii) manage and improve any other national marine sanctuary.

**(2) Liability for costs**

Any person assessed a civil penalty for a violation of this chapter or of any regulation or permit issued under this chapter, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any sanctuary resource or other property seized in connection with the violation.

**(g) Subpoenas**

In the case of any hearing under this section which is determined on the record in accordance with the procedures provided for under section 554 of title 5, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

**(h) Use of resources of State and other Federal agencies**

The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Federal departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary's responsibilities under this section.

**(i) Coast Guard authority not limited**

Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14.

**(j) Injunctive relief**

If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a sanctuary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 1443 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

**(k) Area of application and enforceability**

The area of application and enforceability of this chapter includes the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, which is subject to the sovereignty of the United States, and the United States exclusive economic zone, consistent with international law.

**(l) Nationwide service of process**

In any action by the United States under this chapter, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process.

(Pub. L. 92–532, title III, §307, as added Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2302; amended Pub. L. 100–627, title II, §207, Nov. 7, 1988, 102 Stat. 3219; Pub. L. 102–587, title II, §2107(a)–(c), (e), Nov. 4, 1992, 106 Stat. 5043, 5044; Pub. L. 104–283, §9(c), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106–513, §8, Nov. 13, 2000, 114 Stat. 2387.)

**References in Text**



Presidential Proclamation 5928 of December 27, 1988, referred to in subsec. (k), is set out as a note under section 1331 of Title 43, Public Lands.

### **Amendments**

**2000**—Subsec. (b)(6). Pub. L. 106–513, §8(a), added par. (6).

Subsecs. (c) to (f). Pub. L. 106–513, §8(b), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 106–513, §8(b), (c), redesignated subsec. (f) as (g) and inserted “electronic files,” after “books,”. Former subsec. (g) redesignated (h).

Subsecs. (h) to (k). Pub. L. 106–513, §8(b), redesignated subsecs. (g) to (j) as (h) to (k), respectively.

Subsec. (l). Pub. L. 106–513, §8(c), added subsec. (l).

**1996**—Subsec. (e)(1)(A). Pub. L. 104–283 made technical amendment to reference in original act which appears in text as reference to section 9607(f)(1) of title 42.

**1992**—Subsec. (c)(1). Pub. L. 102–587, §2107(a)(1), substituted “\$100,000” for “\$50,000”.

Subsec. (c)(3). Pub. L. 102–587, §2107(a)(2), struck out “and may be proceeded against in any district court of the United States having jurisdiction” after “assessed for such violation” and inserted at end “Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.”

Subsec. (d)(1). Pub. L. 102–587, §2107(b), inserted at end “The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 1443 of this title. None of those proceeds shall be subject to set-off.”

Subsec. (e)(1). Pub. L. 102–587, §2107(c), added par. (1) and struck out former par. (1) which read as follows: “In general.—Notwithstanding any other law, the Secretary may use amounts received under this section in the form of civil penalties, forfeitures of property, and costs imposed under paragraph (2) to pay—

“(A) the reasonable and necessary costs incurred by the Secretary in providing temporary storage, care, and maintenance of any sanctuary resource or other property seized under this section pending disposition of any civil proceeding relating to any

alleged violation with respect to which such property or sanctuary resource was seized; and

“(B) a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this chapter or of any regulation or permit issued under this chapter.”

Subsec. (j). Pub. L. 102–587, §2107(e), added subsec. (j).

**1988**—Pub. L. 100–627 amended section generally, substituting provisions consisting of subsecs. (a) to (i) relating to enforcement activities in general, powers of authorized officers, civil penalties, forfeiture, payment of storage, care, and other costs, subpoenas, use of resources of State and other Federal agencies, Coast Guard authority, and injunctive relief for former provisions consisting of subsecs. (a) to (c) relating to enforcement activities in general, civil penalties, and jurisdiction.

### **Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### **Study of Joint Enforcement of Marine Sanctuary Regulations**

Pub. L. 102–241, §51, Dec. 19, 1991, 105 Stat. 2227, directed Secretary of Transportation and Secretary of Commerce, not later than one year after Dec. 19, 1991, to submit to Congress a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq., 1447 et seq., 33 U.S.C. 1401 et seq., 2801 et seq.) could be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration.

### **§1438. Repealed. Pub. L. 100–627, title II, §203(1), Nov. 7, 1988, 102 Stat. 3214**

Section, Pub. L. 92–532, title III, §308, as added Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2303, authorized appropriations for fiscal years 1985 to 1988.

### **§1439. Regulations**

The Secretary may issue such regulations as may be necessary to carry out this chapter.

(Pub. L. 92–532, title III, §308, formerly §309, as added Pub. L. 98–498, title I, §102, Oct. 19, 1984, 98 Stat. 2303; renumbered §308, Pub. L. 100–627, title II, §203(2), Nov. 7, 1988, 102 Stat. 3214; Pub. L. 106–513, §9, Nov. 13, 2000, 114 Stat. 2387.)

### **Prior Provisions**

A prior section 308 of Pub. L. 92–532 was classified to section 1438 of this title, prior to repeal by section 203(1) of Pub. L. 100–627.

### **Amendments**

**2000**—Pub. L. 106–513 amended section catchline and text generally. Prior to amendment, text read as follows: “If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application of such provision to other persons and circumstances shall not be affected thereby.”

## **§1440. Research, monitoring, and education**

### **(a) In general**

The Secretary shall conduct, support, or coordinate research, monitoring, evaluation, and education programs consistent with subsections (b) and (c) of this section and the purposes and policies of this chapter.

### **(b) Research and monitoring**

#### **(1) In general**

The Secretary may—

(A) support, promote, and coordinate research on, and long-term monitoring of, sanctuary resources and natural processes that occur in national marine sanctuaries, including exploration, mapping, and environmental and socioeconomic assessment;

(B) develop and test methods to enhance degraded habitats or restore damaged, injured, or lost sanctuary resources; and

(C) support, promote, and coordinate research on, and the conservation, curation, and public display of, the cultural, archeological, and historical resources of national marine sanctuaries.

#### **(2) Availability of results**

The results of research and monitoring conducted, supported, or permitted by the Secretary under this subsection shall be made available to the public.

**(c) Education**

**(1) In general**

The Secretary may support, promote, and coordinate efforts to enhance public awareness, understanding, and appreciation of national marine sanctuaries and the System. Efforts supported, promoted, or coordinated under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries and the System.

**(2) Educational activities**

Activities under this subsection may include education of the general public, teachers, students, national marine sanctuary users, and ocean and coastal resource managers.

**(d) Interpretive facilities**

**(1) In general**

The Secretary may develop interpretive facilities near any national marine sanctuary.

**(2) Facility requirement**

Any facility developed under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries by providing the public with information about the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities of the national marine sanctuary.

**(e) Consultation and coordination**

In conducting, supporting, and coordinating research, monitoring, evaluation, and education programs under subsection (a) of this section and developing interpretive facilities under subsection (d) of this section, the Secretary may consult or coordinate with Federal, interstate, or regional agencies, States or local governments.

(Pub. L. 92–532, title III, §309, as added Pub. L. 100–627, title II, §203(3), Nov. 7, 1988, 102 Stat. 3214; amended Pub. L. 102–587, title II, §2108, Nov. 4, 1992, 106 Stat. 5045; Pub. L. 106–513, §10, Nov. 13, 2000, 114 Stat. 2388.)

**Prior Provisions**

A prior section 309 of Pub. L. 92–532 was renumbered section 308 and is classified to section 1439 of this title.

### **Amendments**

**2000**—Pub. L. 106–513 amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) In general.—The Secretary shall conduct research, monitoring, evaluation, and education programs as are necessary and reasonable to carry out the purposes and policies of this chapter.

“(b) Promotion and Coordination of Sanctuary Use.—The Secretary shall take such action as is necessary and reasonable to promote and coordinate the use of national marine sanctuaries for research, monitoring, and education purposes. Such action may include consulting with Federal agencies, States, local governments, regional agencies, interstate agencies, or other persons to promote use of one or more sanctuaries for research, monitoring, and education, including coordination with the National Estuarine Research Reserve System.”

**1992**—Pub. L. 102–587 amended section generally. Prior to amendment, section read as follows: “The Secretary shall take such action as is necessary to promote and coordinate the use of national marine sanctuaries for research purposes, including—

“(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting marine research, give priority to research involving national marine sanctuaries; and

“(2) consulting with other Federal and State agencies to promote use by such agencies of one or more sanctuaries for marine research.”

### **§1441. Special use permits**

#### **(a) Issuance of permits**

The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

(1) to establish conditions of access to and use of any sanctuary resource; or

(2) to promote public use and understanding of a sanctuary resource.

#### **(b) Public notice required**

The Secretary shall provide appropriate public notice before identifying any category of activity subject to a special use permit under subsection (a) of this section.

**(c) Permit terms**

A permit issued under this section—

(1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

(4) shall require the permittee to purchase and maintain comprehensive general liability insurance, or post an equivalent bond, against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

**(d) Fees**

**(1) Assessment and collection**

The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section.

**(2) Amount**

The amount of a fee under this subsection shall be equal to the sum of—

(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

(C) an amount which represents the fair market value of the use of the sanctuary resource.

**(3) Use of fees**

Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

(A) for issuing and administering permits under this section; and

(B) for expenses of managing national marine sanctuaries.

**(4) Waiver or reduction of fees**

The Secretary may accept in-kind contributions in lieu of a fee under paragraph (2)(C), or waive or reduce any fee assessed under this subsection for any activity that does not derive profit from the access to or use of sanctuary resources.

**(e) Violations**

Upon violation of a term or condition of a permit issued under this section, the Secretary may—

(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

(2) assess a civil penalty in accordance with section 1437 of this title; or

(3) both.

**(f) Reports**

Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

**(g) Fishing**

Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.

(Pub. L. 92–532, title III, §310, as added Pub. L. 100–627, title II, §203(3), Nov. 7, 1988, 102 Stat. 3214; amended Pub. L. 106–513, §11, Nov. 13, 2000, 114 Stat. 2389.)

**Amendments**

**2000**—Subsec. (b). Pub. L. 106–513, §11(1), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 106–513, §11(1), (2), redesignated subsec. (b) as (c) and substituted “insurance, or post an equivalent bond,” for “insurance” in par. (4). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 106–513, §11(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(2)(C). Pub. L. 106–513, §11(3), substituted “resource.” for “resource and a reasonable return to the United States Government.”

Subsec. (d)(3)(B). Pub. L. 106–513, §11(4), struck out “designating and” after “expenses of”.

Subsec. (d)(4). Pub. L. 106–513, §11(5), added par. (4).

Subsecs. (e) to (g). Pub. L. 106–513, §11(1), redesignated subsecs. (d) to (f) as (e) to (g), respectively.

## **§1442. Cooperative agreements, donations, and acquisitions**

### **(a) Agreements and grants**

The Secretary may enter into cooperative agreements, contracts, or other agreements with, or make grants to, States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this chapter.

### **(b) Authorization to solicit donations**

The Secretary may enter into such agreements with any nonprofit organization authorizing the organization to solicit private donations to carry out the purposes and policies of this chapter.

### **(c) Donations**

The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this chapter. Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

### **(d) Acquisitions**

The Secretary may acquire by purchase, lease, or exchange, any land, facilities, or other property necessary and appropriate to carry out the purposes and policies of this chapter.



**(e) Use of resources of other government agencies**

The Secretary may, whenever appropriate, enter into an agreement with a State or other Federal agency to use the personnel, services, or facilities of such agency on a reimbursable or nonreimbursable basis, to assist in carrying out the purposes and policies of this chapter.

**(f) Authority to obtain grants**

Notwithstanding any other provision of law that prohibits a Federal agency from receiving assistance, the Secretary may apply for, accept, and use grants from other Federal agencies, States, local governments, regional agencies, interstate agencies, foundations, or other persons, to carry out the purposes and policies of this chapter.

(Pub. L. 92–532, title III, §311, as added Pub. L. 100–627, title II, §203(3), Nov. 7, 1988, 102 Stat. 3215; amended Pub. L. 102–587, title II, §2109, Nov. 4, 1992, 106 Stat. 5045; Pub. L. 104–283, §9(d), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106–513, §12, Nov. 13, 2000, 114 Stat. 2389.)

**Amendments**

**2000**—Subsec. (a). Pub. L. 106–513, §12(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary may enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this chapter.”

Subsecs. (e), (f). Pub. L. 106–513, §12(b), added subsecs. (e) and (f).

**1996**—Pub. L. 104–283 made technical amendment to directory language of Pub. L. 102–587. See 1992 Amendment note below.

**1992**—Pub. L. 102–587, as amended by Pub. L. 104–283, amended section generally. Prior to amendment, section read as follows:

“(a) Cooperative Agreements.—The Secretary may enter into cooperative agreements with any nonprofit organization—

“(1) to aid and promote interpretive, historical, scientific, and educational activities; and

“(2) for the solicitation of private donations for the support of such activities.

“(b) Donations.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this chapter.”

## **Enhancing Support for National Marine Sanctuaries**

Section 2204 of title II of Pub. L. 102–587, which was formerly set out as a note under this section, was renumbered section 316 of Pub. L. 92–532, The National Marine Sanctuaries Act, by Pub. L. 104–283, §6(a), Oct. 11, 1996, 110 Stat. 3364, and is classified to section 1445b of this title.

### **§1443. Destruction or loss of, or injury to, sanctuary resources**

#### **(a) Liability**

##### **(1) Liability to United States**

Any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for an amount equal to the sum of—

(A) the amount of response costs and damages resulting from the destruction, loss, or injury; and

(B) interest on that amount calculated in the manner described under section 2705 of title 33.

##### **(2) Liability in rem**

Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury. The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

##### **(3) Defenses**

A person is not liable under this subsection if that person establishes that—

(A) the destruction or loss of, or injury to, the sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;

(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

(C) the destruction, loss, or injury was negligible.

##### **(4) Limits to liability**

Nothing in sections 4281–4289 of the Revised Statutes of the United States or section 30706 of title 46 shall limit the liability of any person under this chapter.

**(b) Response actions and damage assessment**

**(1) Response actions**

The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

**(2) Damage assessment**

The Secretary shall assess damages to sanctuary resources in accordance with section 1432(6) of this title.

**(c) Civil actions for response costs and damages**

(1) The Attorney General, upon request of the Secretary, may commence a civil action against any person or vessel who may be liable under subsection (a) of this section for response costs and damages. The Secretary, acting as trustee for sanctuary resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

(2) An action under this subsection may be brought in the United States district court for any district in which—

(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

(B) the vessel is located, in the case of an action against a vessel; or

(C) the destruction of, loss of, or injury to a sanctuary resource occurred.

**(d) Use of recovered amounts**

Response costs and damages recovered by the Secretary under this section shall be retained by the Secretary in the manner provided for in section 9607(f)(1) of title 42, and used as follows:

**(1) Response costs**

Amounts recovered by the United States for costs of response actions and damage assessments under this section shall be used, as the Secretary considers appropriate—

(A) to reimburse the Secretary or any other Federal or State agency that conducted those activities; and

(B) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any sanctuary resource.

**(2) Other amounts**

All other amounts recovered shall be used, in order of priority—

(A) to restore, replace, or acquire the equivalent of the sanctuary resources that were the subject of the action, including for costs of monitoring and the costs of curation and conservation of archeological, historical, and cultural sanctuary resources;

(B) to restore degraded sanctuary resources of the national marine sanctuary that was the subject of the action, giving priority to sanctuary resources and habitats that are comparable to the sanctuary resources that were the subject of the action; and

(C) to restore degraded sanctuary resources of other national marine sanctuaries.

**(3) Federal-State coordination**

Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (2)(A) and (B) in accordance with the court decree or settlement agreement and an agreement entered into by the Secretary and the Governor of that State.

**(e) Statute of limitations**

An action for response costs or damages under subsection (c) of this section shall be barred unless the complaint is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the sanctuary resources to which the action relates.

(Pub. L. 92–532, title III, §312, as added Pub. L. 100–627, title II, §204(a), Nov. 7, 1988, 102 Stat. 3215; amended Pub. L. 102–587, title II, §§2107(d), 2110, Nov. 4, 1992, 106 Stat. 5044, 5045; Pub. L. 104–283, §9(e), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106–513, §§13, 19(c), Nov. 13, 2000, 114 Stat. 2389, 2393.)

**References in Text**

Sections 4281–4289 of the Revised Statutes of the United States, referred to in subsec. (a)(4), were classified to sections 181 to 188 of the former Appendix to Title 46, Shipping, and section 175 of former Title 46. Sections 4281 to 4287 and 4289 of the

Revised Statutes were repealed and restated in chapter 305 of Title 46, Shipping, by Pub. L. 109–304, §§6(c), 19, Oct. 6, 2006, 120 Stat. 1509, 1710. Section 4288 of the Revised Statutes (section 175 of former Title 46) was repealed by act Oct. 9, 1940, ch. 777, §7, 54 Stat. 1028. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of Title 46.

### **Codification**

In subsec. (a)(4), “section 30706 of title 46” substituted for “section 3 of the Act of February 13, 1893,” on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 30706 of Title 46, Shipping.

### **Amendments**

**2000**—Subsec. (a)(1). Pub. L. 106–513, §19(c), amended par. (1) heading.

Subsec. (c). Pub. L. 106–513, §13(a), designated existing provisions as par. (1), struck out “in the United States district court for the appropriate district” after “civil action”, and added par. (2).

Subsec. (d)(1), (2). Pub. L. 106–513, §13(b), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

(1) Response costs and damage assessments.—Twenty percent of amounts recovered under this section, up to a maximum balance of \$750,000, shall be used to finance response actions and damage assessments by the Secretary.

(2) Restoration, replacement, management, and improvement.—Amounts remaining after the operation of paragraph (1) shall be used, in order of priority—

(A) to restore, replace, or acquire the equivalent of the sanctuary resources which were the subject of the action;

(B) to manage and improve the national marine sanctuary within which are located the sanctuary resources which were the subject of the action; and

(C) to manage and improve any other national marine sanctuary.

Subsec. (e). Pub. L. 106–513, §13(c), added subsec. (e).

**1996**—Subsec. (b)(1). Pub. L. 104–283 made technical amendment to directory language of Pub. L. 102–587, §2110(d). See 1992 Amendment note below.

**1992**—Subsec. (a)(1). Pub. L. 102–587, §2110(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “In general.—Subject to paragraph (3), any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.”

Subsec. (a)(2). Pub. L. 102–587, §2110(b), inserted at end “The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.”

Subsec. (a)(4). Pub. L. 102–587, §2110(c), added par. (4).

Subsec. (b)(1). Pub. L. 102–587, §2110(d), as amended by Pub. L. 104–283, inserted “or authorize” after “undertake”.

Subsec. (d). Pub. L. 102–587, §2107(d)(1), struck out “and civil penalties under section 1437 of this title” after “Secretary under this section”.

Subsec. (d)(3), (4). Pub. L. 102–587, §§2107(d)(2), 2110(e), redesignated par. (4) as (3), inserted “the court decree or settlement agreement and” after “in accordance with”, and struck out former par. (3) which read as follows: “Amounts recovered under section 1437 of this title in the form of civil penalties shall be used by the Secretary in accordance with section 1437(e) of this title and paragraphs (2)(B) and (C) of this subsection.”

### **Effective Date**

Section 204(c) of Pub. L. 100–627 provided that: “Amounts in the form of damages received by the United States after November 30, 1986, for destruction or loss of, or injury to, a sanctuary resource (as that term is defined in section 302(8) of the Act [16 U.S.C. 1432(8)] (as amended by this Act)) shall be subject to section 312 of the Act [16 U.S.C. 1443] (as amended by this Act).”

### **§1444. Authorization of appropriations**

There are authorized to be appropriated to the Secretary—

(1) to carry out this chapter—

(A) \$32,000,000 for fiscal year 2001;

(B) \$34,000,000 for fiscal year 2002;

(C) \$36,000,000 for fiscal year 2003;

(D) \$38,000,000 for fiscal year 2004;

(E) \$40,000,000 for fiscal year 2005; and

(2) for construction projects at national marine sanctuaries, \$6,000,000 for each of fiscal years 2001, 2002, 2003, 2004, and 2005.

(Pub. L. 92–532, title III, §313, as added Pub. L. 100–627, title II, §208, Nov. 7, 1988, 102 Stat. 3221; amended Pub. L. 101–605, §10(a), Nov. 16, 1990, 104 Stat. 3095; Pub. L. 102–587, title II, §2111, Nov. 4, 1992, 106 Stat. 5046; Pub. L. 104–283, §3, Oct. 11, 1996, 110 Stat. 3363; Pub. L. 106–513, §14, Nov. 13, 2000, 114 Stat. 2390.)

### **Amendments**

**2000**—Pub. L. 106–513 amended section generally, substituting provisions authorizing appropriations to carry out this chapter for fiscal years 2001 to 2005 for provisions authorizing such appropriations for fiscal years 1997 to 1999.

**1996**—Pub. L. 104–283 amended section generally, substituting provisions authorizing appropriations to carry out this chapter for fiscal years 1997 to 1999 for provisions authorizing such appropriations for fiscal years 1993 to 1996.

**1992**—Pub. L. 102–587 amended section generally, substituting provisions relating to authorization of appropriations for fiscal years 1993 to 1996 to carry out this chapter for provisions relating to authorization of appropriations for fiscal years 1989 to 1992 to carry out general administration, management of national marine sanctuaries and site review and analysis of national marine sanctuaries of this chapter.

**1990**—Par. (2)(C). Pub. L. 101–605 substituted “\$4,000,000” for “\$3,000,000”.

### **§1445. U.S.S. Monitor artifacts and materials**

#### **(a) Congressional policy**

In recognition of the historical significance of the wreck of the United States ship Monitor to coastal North Carolina and to the area off the coast of North Carolina known as the Graveyard of the Atlantic, the Congress directs that a suitable display of artifacts and materials from the United States ship Monitor be maintained permanently at an appropriate site in coastal North Carolina.

#### **(b) Disclaimer**

This section shall not affect the following:

### **(1) Responsibilities of Secretary**

The responsibilities of the Secretary to provide for the protection, conservation, and display of artifacts and materials from the United States ship Monitor.

### **(2) Authority of Secretary**

The authority of the Secretary to designate the Mariner's Museum, located at Newport News, Virginia, as the principal museum for coordination of activities referred to in paragraph (1).

(Pub. L. 92–532, title III, §314, as added Pub. L. 100–627, title II, §208, Nov. 7, 1988, 102 Stat. 3222; amended Pub. L. 106–513, §15, Nov. 13, 2000, 114 Stat. 2391.)

### **Amendments**

**2000**—Subsecs. (b), (c). Pub. L. 106–513 redesignated subsec. (c) as (b) and struck out former subsec. (b) which required the Secretary to submit a plan for a suitable display in coastal North Carolina of artifacts and materials of the United States ship Monitor.

### **Management, Recovery, and Preservation Plan for U.S.S. MONITOR**

Pub. L. 104–283, §4, Oct. 11, 1996, 110 Stat. 3363, provided that: “The Secretary of Commerce shall, within 12 months after the date of the enactment of this Act [Oct. 11, 1996], prepare and submit to the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a long-range, comprehensive plan for the management, stabilization, preservation, and recovery of artifacts and materials of the U.S.S. MONITOR. In preparing and implementing the plan, the Secretary shall to the extent feasible utilize the resources of other Federal and private entities with expertise and capabilities that are helpful.”

### **Graveyard of the Atlantic Artifacts**

Pub. L. 102–587, title II, §2201, Nov. 4, 1992, 106 Stat. 5047, provided that:

(a) Acquisition of Space.—Pursuant to section 314 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1445) and consistent with the Cooperative Agreement entered into in October, 1989, between the National Oceanic and Atmospheric Administration and the Mariner's Museum of Newport News, Virginia, the Secretary of Commerce shall make a grant for the acquisition of space in Hatteras Village, North Carolina, for—



(1) the display and interpretation of artifacts recovered from the area of the Atlantic Ocean adjacent to North Carolina generally known as the Graveyard of the Atlantic, including artifacts recovered from the Monitor National Marine Sanctuary; and

(2) administration and operations of the Monitor National Marine Sanctuary.

(b) Authorization.—To carry out the responsibilities of the Secretary of Commerce under this section, there are authorized to be appropriated to the Secretary of Commerce a total of \$800,000 for fiscal years 1993 and 1994, to remain available until expended.

(c) Federal Share.—Not more than two-thirds of the cost of space acquired under this section may be paid with amounts provided pursuant to this section.

### **§1445a. Advisory Councils**

#### **(a) Establishment**

The Secretary may establish one or more advisory councils (in this section referred to as an “Advisory Council”) to advise and make recommendations to the Secretary regarding the designation and management of national marine sanctuaries. The Advisory Councils shall be exempt from the Federal Advisory Committee Act.

#### **(b) Membership**

Members of the Advisory Councils may be appointed from among—

(1) persons employed by Federal or State agencies with expertise in management of natural resources;

(2) members of relevant Regional Fishery Management Councils established under section 1852 of this title; and

(3) representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources.

#### **(c) Limits on membership**

For sanctuaries designated after November 4, 1992, the membership of Advisory Councils shall be limited to no more than 15 members.

#### **(d) Staffing and assistance**

The Secretary may make available to an Advisory Council any staff, information, administrative services, or assistance the Secretary determines are reasonably required to enable the Advisory Council to carry out its functions.

**(e) Public participation and procedural matters**

The following guidelines apply with respect to the conduct of business meetings of an Advisory Council:

(1) Each meeting shall be open to the public, and interested persons shall be permitted to present oral or written statements on items on the agenda.

(2) Emergency meetings may be held at the call of the chairman or presiding officer.

(3) Timely notice of each meeting, including the time, place, and agenda of the meeting, shall be published locally and in the Federal Register, except that in the case of a meeting of an Advisory Council established to provide assistance regarding any individual national marine sanctuary the notice is not required to be published in the Federal Register.

(4) Minutes of each meeting shall be kept and contain a summary of the attendees and matters discussed.

(Pub. L. 92–532, title III, §315, as added Pub. L. 102–587, title II, §2112, Nov. 4, 1992, 106 Stat. 5046; amended Pub. L. 104–283, §§5, 9(f), Oct. 11, 1996, 110 Stat. 3363, 3368; Pub. L. 106–513, §§16, 19(b)(5), Nov. 13, 2000, 114 Stat. 2391, 2393.)

**References in Text**

The Federal Advisory Committee Act, referred to in subsec. (a), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

**Amendments**

**2000**—Subsec. (a). Pub. L. 106–513, §16, substituted “advise and make recommendations” for “provide assistance”.

Subsec. (b)(2). Pub. L. 106–513, §19(b)(5), made technical amendment to reference in original act which appears in text as reference to section 1852 of this title.

**1996**—Pub. L. 104–283, §9(f), made technical amendment to directory language of Pub. L. 102–587, §2112, which added this section.

Subsec. (e)(3). Pub. L. 104–283, §5, inserted before period at end “, except that in the case of a meeting of an Advisory Council established to provide assistance regarding any individual national marine sanctuary the notice is not required to be published in the Federal Register”.

#### **§1445b. Enhancing support for national marine sanctuaries**

##### **(a) Authority**

The Secretary may establish a program consisting of—

- (1) the creation, adoption, and publication in the Federal Register by the Secretary of a symbol for the national marine sanctuary program, or for individual national marine sanctuaries or the System;
- (2) the solicitation of persons to be designated as official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;
- (3) the designation of persons by the Secretary as official sponsors of the national marine sanctuary program or of individual sanctuaries;
- (4) the authorization by the Secretary of the manufacture, reproduction, or other use of any symbol published under paragraph (1), including the sale of items bearing such a symbol, by official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;
- (5) the creation, marketing, and selling of products to promote the national marine sanctuary program, and entering into exclusive or nonexclusive agreements authorizing entities to create, market or sell on the Secretary's behalf;
- (6) the solicitation and collection by the Secretary of monetary or in-kind contributions from official sponsors for the manufacture, reproduction or use of the symbols published under paragraph (1);
- (7) the retention of any monetary or in-kind contributions collected under paragraphs (5) and (6) by the Secretary; and
- (8) the expenditure and use of any monetary and in-kind contributions, without appropriation, by the Secretary to designate and manage national marine sanctuaries.

Monetary and in-kind contributions raised through the sale, marketing, or use of symbols and products related to an individual national marine sanctuary shall be used to support that sanctuary.

**(b) Contract authority**

The Secretary may contract with any person for the creation of symbols or the solicitation of official sponsors under subsection (a) of this section.

**(c) Restrictions**

The Secretary may restrict the use of the symbols published under subsection (a) of this section, and the designation of official sponsors of the national marine sanctuary program or of individual national marine sanctuaries to ensure compatibility with the goals of the national marine sanctuary program.

**(d) Property of United States**

Any symbol which is adopted by the Secretary and published in the Federal Register under subsection (a) of this section is deemed to be the property of the United States.

**(e) Prohibited activities**

It is unlawful for any person—

(1) designated as an official sponsor to influence or seek to influence any decision by the Secretary or any other Federal official related to the designation or management of a national marine sanctuary, except to the extent that a person who is not so designated may do so;

(2) to represent himself or herself to be an official sponsor absent a designation by the Secretary;

(3) to manufacture, reproduce, or otherwise use any symbol adopted by the Secretary under subsection (a)(1) of this section, including to sell any item bearing such a symbol, unless authorized by the Secretary under subsection (a)(4) of this section or subsection (f) of this section; or

(4) to violate any regulation promulgated by the Secretary under this section.

**(f) Collaborations**

The Secretary may authorize the use of a symbol adopted by the Secretary under subsection (a)(1) of this section by any person engaged in a collaborative effort with the Secretary to carry out the purposes and policies of this chapter and to benefit a national marine sanctuary or the System.

**(g) Authorization for non-profit partner organization to solicit sponsors**

### **(1) In general**

The Secretary may enter into an agreement with a non-profit partner organization authorizing it to assist in the administration of the sponsorship program established under this section. Under an agreement entered into under this paragraph, the Secretary may authorize the non-profit partner organization to solicit persons to be official sponsors of the national marine sanctuary system or of individual national marine sanctuaries, upon such terms as the Secretary deems reasonable and will contribute to the successful administration of the sanctuary system. The Secretary may also authorize the non-profit partner organization to collect the statutory contribution from the sponsor, and, subject to paragraph (2), transfer the contribution to the Secretary.

### **(2) Reimbursement for administrative costs**

Under the agreement entered into under paragraph (1), the Secretary may authorize the non-profit partner organization to retain not more than 5 percent of the amount of monetary contributions it receives from official sponsors under the agreement to offset the administrative costs of the organization in soliciting sponsors.

### **(3) Partner organization defined**

In this subsection, the term “partner organization” means an organization that—

(A) draws its membership from individuals, private organizations, corporations, academic institutions, or State and local governments; and

(B) is established to promote the understanding of, education relating to, and the conservation of the resources of a particular sanctuary or 2 or more related sanctuaries.

(Pub. L. 92–532, title III, §316, formerly Pub. L. 102–587, title II, §2204, Nov. 4, 1992, 106 Stat. 5049; renumbered §316 of Pub. L. 92–532 and amended Pub. L. 104–283, §6, Oct. 11, 1996, 110 Stat. 3364; Pub. L. 106–513, §17, Nov. 13, 2000, 114 Stat. 2391.)

### **Codification**

Section was set out as a note under section 1442 of this title prior to renumbering by Pub. L. 104–283.

### **Amendments**

**2000**—Subsec. (a)(1). Pub. L. 106–513, §17(1), inserted “or the System” after “sanctuaries”.

Subsec. (a)(4). Pub. L. 106–513, §17(2), substituted “manufacture, reproduction, or other use of any symbol published under paragraph (1), including the sale of items bearing such a symbol,” for “use of any symbol published under paragraph (1)”.

Subsec. (e)(3). Pub. L. 106–513, §17(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “to manufacture, reproduce, or use any symbol adopted by the Secretary absent designation as an official sponsor and without payment of a monetary or in-kind contribution to the Secretary; and”.

Subsecs. (f), (g). Pub. L. 106–513, §17(4), added subsecs. (f) and (g).

**1996**—Subsec. (a). Pub. L. 104–283, §6(b)(7), inserted at end “Monetary and in-kind contributions raised through the sale, marketing, or use of symbols and products related to an individual national marine sanctuary shall be used to support that sanctuary.”

Pub. L. 104–283, §6(b)(2), substituted “Authority” for “Project” as heading and “The Secretary may establish a program consisting of” for “The project shall consist of” in introductory provisions.

Pub. L. 104–283, §6(b)(1), redesignated subsec. (b) as (a) and struck out former subsec. (a) which read as follows: “Beginning on November 4, 1992, the Secretary shall conduct a 2-year pilot project to enhance funding for designation and management of national marine sanctuaries.”

Subsec. (a)(5). Pub. L. 104–283, §6(b)(6), added par. (5). Former par. (5) redesignated (6).

Pub. L. 104–283, §6(b)(3), substituted “solicitation” for “establishment” and “monetary or in-kind contributions” for “fees”.

Subsec. (a)(6). Pub. L. 104–283, §6(b)(6), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Pub. L. 104–283, §6(b)(4), substituted “monetary or in-kind contributions collected” for “fees assessed” and “paragraphs (5) and (6)” for “paragraph (5)” and struck out “in an interest-bearing revolving fund” after “by the Secretary”.

Subsec. (a)(7). Pub. L. 104–283, §6(b)(6), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Pub. L. 104–283, §6(b)(5), inserted “and use” after “expenditure”, substituted “monetary and in-kind contributions” for “fees”, and struck out “and any interest in the fund established under paragraph (6)” before “, without appropriation”.

Subsec. (a)(8). Pub. L. 104–283, §6(b)(6), redesignated par. (7) as (8).

Subsec. (b). Pub. L. 104–283, §6(b)(9), substituted “subsection (a)” for “subsection (b)”.

Pub. L. 104–283, §6(b)(1), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 104–283, §6(b)(9), substituted “subsection (a)” for “subsection (b)”.

Pub. L. 104–283, §6(b)(1), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 104–283, §6(b)(9), substituted “subsection (a)” for “subsection (b)”.

Pub. L. 104–283, §6(b)(1), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 104–283, §6(b)(8), struck out “(1)” before “It is unlawful”, redesignated subpars. (A) to (D) as pars. (1) to (4), respectively, in par. (3), substituted “monetary or in-kind contribution” for “fee”, and struck out former par. (2) which read as follows: “Violation of this subsection shall be considered a violation of this chapter.”

Pub. L. 104–283, §6(b)(1), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 104–283, §6(b)(1), redesignated subsec. (f) as (e).

Subsec. (g). Pub. L. 104–283, §6(b)(1), struck out heading and text of subsec. (g). Text read as follows: “No later than 30 months after November 4, 1992, the Secretary shall submit a report on the pilot project to Congress regarding the success of the program in providing additional funds for management and operation of national marine sanctuaries.”

Subsec. (h). Pub. L. 104–283, §6(b)(1), struck out heading and text of subsec. (h). Text read as follows: In this section—

(1) the term ‘national marine sanctuary’ or ‘national marine sanctuaries’ means a national marine sanctuary or sanctuaries designated under this chapter, or by other law in accordance with this chapter;

(2) the term ‘official sponsor’ means any person designated by the Secretary who is authorized to manufacture, reproduce, or use any symbol created, adopted, and published in the Federal Register under this section for a fee paid to the Secretary; and

(3) the term ‘Secretary’ means the Secretary of Commerce.

### **§1445c. Dr. Nancy Foster Scholarship Program**

#### **(a) Establishment**

The Secretary shall establish and administer through the National Ocean Service the Dr. Nancy Foster Scholarship Program. Under the program, the Secretary shall award graduate education scholarships in oceanography, marine biology or maritime archeology, to be known as Dr. Nancy Foster Scholarships.

#### **(b) Purposes**

The purposes of the Dr. Nancy Foster Scholarship Program are—

- (1) to recognize outstanding scholarship in oceanography, marine biology, or maritime archeology, particularly by women and members of minority groups; and
- (2) to encourage independent graduate level research in oceanography, marine biology, or maritime archeology.

#### **(c) Award**

Each Dr. Nancy Foster Scholarship—

- (1) shall be used to support graduate studies in oceanography, marine biology, or maritime archeology at a graduate level institution of higher education; and
- (2) shall be awarded in accordance with guidelines issued by the Secretary.

#### **(d) Distribution of funds**

The amount of each Dr. Nancy Foster Scholarship shall be provided directly to a recipient selected by the Secretary upon receipt of certification that the recipient will adhere to a specific and detailed plan of study and research approved by a graduate level institution of higher education.

#### **(e) Funding**

Of the amount available each fiscal year to carry out this chapter, the Secretary shall award 1 percent as Dr. Nancy Foster Scholarships.

#### **(f) Scholarship repayment requirement**



The Secretary shall require an individual receiving a scholarship under this section to repay the full amount of the scholarship to the Secretary if the Secretary determines that the individual, in obtaining or using the scholarship, engaged in fraudulent conduct or failed to comply with any term or condition of the scholarship.

**(g) Maritime archeology defined**

In this section the term “maritime archeology” includes the curation, preservation, and display of maritime artifacts.

(Pub. L. 92–532, title III, §318, as added Pub. L. 106–513, §18, Nov. 13, 2000, 114 Stat. 2392.)

**Codification**

For similar provisions relating to the Dr. Nancy Foster Scholarship Program, see section 1445c–1 of this title.

**§1445c–1. Dr. Nancy Foster Scholarship Program**

**(a) Establishment**

The Secretary of Commerce shall establish and administer through the National Ocean Service the Dr. Nancy Foster Scholarship Program. Under the program, the Secretary shall award graduate education scholarships in marine biology, oceanography, or maritime archaeology, including the curation, preservation, and display of maritime artifacts, to be known as “Dr. Nancy Foster Scholarships”.

**(b) Purpose**

The purpose of the Dr. Nancy Foster Scholarship Program is to recognize outstanding scholarship in marine biology, oceanography, or maritime archaeology, particularly by women and members of minority groups, and encourage independent graduate level research in such fields of study.

**(c) Award**

Each Dr. Nancy Foster Scholarship award—

(1) shall be used to support a candidate's graduate studies in marine biology, oceanography, or maritime archaeology at a sponsoring institution; and

(2) shall be made available to individual candidates in accordance with guidelines issued by the Secretary.

**(d) Distribution of funds**

The amount of each Dr. Nancy Foster Scholarship shall be provided directly to each recipient selected by the Secretary upon receipt of certification that the recipient will adhere to a specific and detailed plan of study and research approved by the sponsoring institution.

**(e) Funding**

The Secretary shall make 1 percent of the amount appropriated each fiscal year to carry out the National Marine Sanctuaries Act [16 U.S.C. 1431 et seq.] available for Dr. Nancy Foster Scholarships.

**(f) Scholarship repayment requirement**

Repayment of the award shall be made to the Secretary in the case of fraud or noncompliance.

(Pub. L. 106–553, §1(a)(2) [title II, §210], Dec. 21, 2000, 114 Stat. 2762, 2762A–79.)

**References in Text**

The National Marine Sanctuaries Act, referred to in subsec. (e), is title III of Pub. L. 92–532, Oct. 23, 1972, 86 Stat. 1061, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title and Tables.

**Codification**

For similar provisions relating to the Dr. Nancy Foster Scholarship Program, see section 1445c of this title.

Section was enacted as part of the Department of Commerce and Related Agencies Appropriations Act, 2001, and also as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, and not as part of the National Marine Sanctuaries Act which comprises this chapter.

## **VI. COASTAL ZONE MANAGEMENT**

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(as of January 2011)

16 U.S.C. Ch. 33: COASTAL ZONE MANAGEMENT  
From Title 16—CONSERVATION

### **CHAPTER 33—COASTAL ZONE MANAGEMENT**

Sec.

- 1451. Congressional findings.
- 1452. Congressional declaration of policy.
- 1453. Definitions.
- 1454. Submittal of State program for approval.
- 1455. Administrative grants.
- 1455a. Coastal resource improvement program.
- 1455b. Protecting coastal waters.
- 1456. Coordination and cooperation.
- 1456–1. Authorization of the Coastal and Estuarine Land Conservation Program.
- 1456a. Coastal Zone Management Fund.
- 1456b. Coastal zone enhancement grants.
- 1456c. Technical assistance.
- 1456d. Coastal and Estuarine Land Conservation Program.
- 1457. Public hearings.
- 1458. Review of performance.
- 1459. Records and audit.
- 1460. Walter B. Jones excellence in coastal zone management awards.
- 1461. National Estuarine Research Reserve System.
- 1462. Coastal zone management reports.
- 1463. Rules and regulations.
- 1463a. Omitted.
- 1463b. National Coastal Resources Research and Development Institute.
- 1464. Authorization of appropriations.
- 1465. Appeals to the Secretary.
- 1466. Appeals relating to offshore mineral development.

#### **§1451. Congressional findings**

The Congress finds that—

- (a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.

(b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation.

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

(d) The habitat areas of the coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost.

(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, exclusive economic zone, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters;<sup>1</sup>

(g) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.

(h) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.

(i) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

(j) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone.

(k) Land uses in the coastal zone, and the uses of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from land use activities must be improved.

(l) Because global warming may result in a substantial sea level rise with serious adverse effects in the coastal zone, coastal states must anticipate and plan for such an occurrence.

(m) Because of their proximity to and reliance upon the ocean and its resources, the coastal states have substantial and significant interests in the protection, management, and development of the resources of the exclusive economic zone that can only be served by the active participation of coastal states in all Federal programs affecting such resources and, wherever appropriate, by the development of state ocean resource plans as part of their federally approved coastal zone management programs.

(Pub. L. 89–454, title III, §302, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280; amended Pub. L. 94–370, §2, July 26, 1976, 90 Stat. 1013; Pub. L. 96–464, §2, Oct. 17, 1980, 94 Stat. 2060; Pub. L. 101–508, title VI, §6203(a), Nov. 5, 1990, 104 Stat. 1388–300.)

### **Amendments**

**1990**—Subsec. (d). Pub. L. 101–508, §6203(a)(1), inserted “habitat areas of the” before “coastal zone”.

Subsec. (f). Pub. L. 101–508, §6203(a)(2), inserted “exclusive economic zone,” after “territorial sea,”.

Subsecs. (k) to (m). Pub. L. 101–508, §6203(a)(3), added subsecs. (k) to (m).

**1980**—Subsecs. (f) to (j). Pub. L. 96–464, §2(1), (2), added subsec. (f) and redesignated former subsecs. (f) to (i) as (g) to (j), respectively.

**1976**—Subsec. (b). Pub. L. 94–370, §2(1), inserted “ecological,” after “recreational,”.

Subsec. (i). Pub. L. 94–370, §2(3), added subsec. (i).

### **Short Title of 2009 Amendment**

Pub. L. 111–11, title XII, §12501, Mar. 30, 2009, 123 Stat. 1442, provided that: “This Act [probably should be “subtitle”, meaning subtitle E (§§12501, 12502) of title XII of Pub. L. 111–11, enacting section 1456–1 of this title] may be cited as the ‘Coastal and Estuarine Land Conservation Program Act’.”

### **Short Title of 2004 Amendment**

Pub. L. 108–456, title I, §101, Dec. 10, 2004, 118 Stat. 3630, provided that: “This title [enacting and amending provisions set out as notes under this section] may be cited as the ‘Harmful Algal Bloom and Hypoxia Amendments Act of 2004’.”

#### **Short Title of 1996 Amendment**

Pub. L. 104–150, §1, June 3, 1996, 110 Stat. 1380, provided that: “This Act [enacting section 1465 of this title, amending sections 1454, 1455a, 1456a, 1456b, 1461, and 1464 of this title, and enacting provisions set out as a note under section 1454 of this title] may be cited as the ‘Coastal Zone Protection Act of 1996’.”

#### **Short Title of 1990 Amendment**

Section 6201 of title VI of Pub. L. 101–508 provided that: “This subtitle [subtitle C (§§6201–6217) of title VI of Pub. L. 101–508, enacting sections 1455b, 1456c, and 1460 of this title, amending this section and sections 1452 to 1456b, 1458, 1461, and 1464 of this title, and enacting provisions set out as notes under this section and section 1455 of this title] may be cited as the ‘Coastal Zone Act Reauthorization Amendments of 1990’.”

#### **Short Title of 1986 Amendment**

Pub. L. 99–272, title VI, §6041, Apr. 7, 1986, 100 Stat. 124, provided that: “This subtitle [subtitle D (§§6041–6047) of title VI of Pub. L. 99–272, amending sections 1455, 1455a, 1456a, 1458, 1461, and 1464 of this title, repealing sections 1456c and 1460 of this title, and repealing provisions set out as a note under this section] may be cited as the ‘Coastal Zone Management Reauthorization Act of 1985’.”

#### **Short Title of 1980 Amendment**

Section 1 of Pub. L. 96–464 provided: “That this Act [enacting sections 1455a and 1463a of this title, amending this section and sections 1452, 1453, 1455, 1456a, 1456b, 1458, 1461, 1462, and 1464 of this title, and enacting provisions set out as notes under sections 1455, 1458, and 1463a of this title] may be cited as the ‘Coastal Zone Management Improvement Act of 1980’.”

#### **Short Title of 1976 Amendment**

Section 1 of Pub. L. 94–370 provided: “That this Act [enacting section 1511a of Title 15, Commerce and Trade, and sections 1456a to 1456c of this title, amending this section, sections 1453 to 1456 and 1457 to 1464 of this title, and section 5316 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under section 1511a of Title 15 and section 1462 of this title] may be cited as the ‘Coastal Zone Management Act Amendments of 1976’.”

### **Short Title**

Section 301 of title III of Pub. L. 89–454, as added by Pub. L. 92–583, provided that: “This title [enacting this chapter] may be cited as the ‘Coastal Zone Management Act of 1972’.”

### **Hypoxia Assessment**

Pub. L. 110–114, title V, §5022, Nov. 8, 2007, 121 Stat. 1203, provided that: “The Secretary [of the Army] may participate with Federal, State, and local agencies, non-Federal and nonprofit entities, regional researchers, and other interested parties to assess hypoxia in the Gulf of Mexico.”

### **Harmful Algal Blooms and Hypoxia Research and Control**

Pub. L. 108–456, title I, §102, Dec. 10, 2004, 118 Stat. 3630, provided in part that: “In developing the assessments, reports, and plans under the amendments made by this title [see Short Title of 2004 Amendment note above], the Task Force [Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia] shall consult with the coastal States, Indian tribes, local governments, appropriate industries (including fisheries, agriculture, and fertilizer), academic institutions, and nongovernmental organizations with expertise in coastal zone science and management.”

Pub. L. 105–383, title VI, Nov. 13, 1998, 112 Stat. 3447, as amended by Pub. L. 108–456, title I, §§102–105, Dec. 10, 2004, 118 Stat. 3630–3633; Pub. L. 110–161, div. B, title V, §528, Dec. 26, 2007, 121 Stat. 1930, provided that:

#### **§601. SHORT TITLE.**

This title may be cited as the ‘Harmful Algal Bloom and Hypoxia Research and Control Act of 1998’.

#### **§602. FINDINGS.**

The Congress finds that—

- (1) the recent outbreak of the harmful microbe *Pfiesteria piscicida* in the coastal waters of the United States is one example of potentially harmful algal blooms composed of naturally occurring species that reproduce explosively and that are increasing in frequency and intensity in the Nation's coastal waters;
- (2) other recent occurrences of harmful algal blooms include red tides in the Gulf of Mexico and the Southeast; brown tides in New York and Texas; ciguatera fish poisoning

in Hawaii, Florida, Puerto Rico, and the United States Virgin Islands; and shellfish poisonings in the Gulf of Maine, the Pacific Northwest, and the Gulf of Alaska;

(3) in certain cases, harmful algal blooms have resulted in fish kills, the deaths of numerous endangered West Indian manatees, beach and shellfish bed closures, threats to public health and safety, and concern among the public about the safety of seafood;

(4) according to some scientists, the factors causing or contributing to harmful algal blooms may include excessive nutrients in coastal waters, other forms of pollution, the transfer of harmful species through ship ballast water, and ocean currents;

(5) harmful algal blooms may have been responsible for an estimated \$1,000,000,000 in economic losses during the past decade;

(6) harmful algal blooms and blooms of non-toxic algal species may lead to other damaging marine conditions such as hypoxia (reduced oxygen concentrations), which are harmful or fatal to fish, shellfish, and benthic organisms;

(7) according to the National Oceanic and Atmospheric Administration in the Department of Commerce, 53 percent of United States estuaries experience hypoxia for at least part of the year and a 7,000 square mile area in the Gulf of Mexico off Louisiana and Texas suffers from hypoxia;

(8) according to some scientists, a factor believed to cause hypoxia is excessive nutrient loading into coastal waters;

(9) there is a need to identify more workable and effective actions to reduce nutrient loadings to coastal waters;

(10) the National Oceanic and Atmospheric Administration, through its ongoing research, education, grant, and coastal resource management programs, possesses a full range of capabilities necessary to support a near and long-term comprehensive effort to prevent, reduce, and control harmful algal blooms and hypoxia;

(11) funding for the research and related programs of the National Oceanic and Atmospheric Administration will aid in improving the Nation's understanding and capabilities for addressing the human and environmental costs associated with harmful algal blooms and hypoxia; and

(12) other Federal agencies such as the Environmental Protection Agency, the Department of Agriculture, and the National Science Foundation, along with the States, Indian tribes, and local governments, conduct important work related to the prevention, reduction, and control of harmful algal blooms and hypoxia.



**§603. ASSESSMENTS.**

(a) Establishment of Inter-Agency Task Force.—The President, through the Committee on Environment and Natural Resources of the National Science and Technology Council, shall establish an Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia (hereinafter referred to as the ‘Task Force’). The Task Force shall consist of the following representatives from—

- (1) the Department of Commerce (who shall serve as Chairman of the Task Force);
- (2) the Environmental Protection Agency;
- (3) the Department of Agriculture;
- (4) the Department of the Interior;
- (5) the Department of the Navy;
- (6) the Department of Health and Human Services;
- (7) the National Science Foundation;
- (8) the National Aeronautics and Space Administration;
- (9) the Food and Drug Administration;
- (10) the Office of Science and Technology Policy;
- (11) the Council on Environmental Quality; and
- (12) such other Federal agencies as the President considers appropriate.

(b) Assessment of Harmful Algal Blooms.—

(1) Not later than 12 months after the date of the enactment of this title [Nov. 13, 1998], the Task Force, in cooperation with the coastal States, Indian tribes, and local governments, industry (including agricultural organizations), academic institutions, and non-governmental organizations with expertise in coastal zone management, shall complete and submit to the Congress an assessment which examines the ecological and economic consequences of harmful algal blooms, alternatives for reducing, mitigating, and controlling harmful algal blooms, and the social and economic costs and benefits of such alternatives.

(2) The assessment shall—

(A) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to harmful algal blooms; and

(B) provide for Federal cooperation and coordination with and assistance to the coastal States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of harmful algal blooms and their environmental and public health impacts.

(c) Assessment of Hypoxia.—

(1) Not later than 12 months after the date of the enactment of this title [Nov. 13, 1998], the Task Force, in cooperation with the States, Indian tribes, local governments, industry, agricultural, academic institutions, and non-governmental organizations with expertise in watershed and coastal zone management, shall complete and submit to the Congress an assessment which examines the ecological and economic consequences of hypoxia in United States coastal waters, alternatives for reducing, mitigating, and controlling hypoxia, and the social and economic costs and benefits of such alternatives.

(2) The assessment shall—

(A) establish needs, priorities, and guidelines for a peer-reviewed, inter-agency research program on the causes, characteristics, and impacts of hypoxia;

(B) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to hypoxia; and

(C) provide for Federal cooperation and coordination with and assistance to the States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of hypoxia and its environmental impacts.

(d) Report to Congress on Harmful Algal Bloom Impacts.—

(1) Development.—Not later than 12 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004], the President, in consultation with the chief executive officers of the States, shall develop and submit to the Congress a report that describes and evaluates the effectiveness of measures described in paragraph (2) that may be utilized to protect environmental and public health from impacts of harmful algal blooms. In developing the report, the President shall consult with the Task Force, the coastal States, Indian tribes, local governments, appropriate industries (including fisheries, agriculture, and fertilizer), academic institutions, and nongovernmental organizations with expertise in coastal zone science and management, and also consider the scientific assessments developed under this Act.

(2) Requirements.—The report shall—

(A) review techniques for prediction of the onset, course, and impacts of harmful algal blooms including evaluation of their accuracy and utility in protecting environmental and public health and provisions for their development;

(B) identify innovative research and development methods for the prevention, control, and mitigation of harmful algal blooms and provisions for their development; and

(C) include incentive-based partnership approaches regarding subparagraphs (A) and (B) where practicable.

(3) Publication and opportunity for comment.—At least 90 days before submitting the report to the Congress, the President shall cause a summary of the proposed plan to be published in the Federal Register for a public comment period of not less than 60 days.

(4) Federal assistance.—The Secretary of Commerce, in coordination with the Task Force and to the extent of funds available, shall provide for Federal cooperation with and assistance to the coastal States, Indian tribes, and local governments regarding the measures described in paragraph (2), as requested.

(e) Local and Regional Scientific Assessments.—

(1) In general.—The Secretary of Commerce, in coordination with the Task Force and appropriate State, Indian tribe, and local governments, to the extent of funds available, shall provide for local and regional scientific assessments of hypoxia and harmful algal blooms, as requested by States, Indian tribes, and local governments, or for affected areas as identified by the Secretary. If the Secretary receives multiple requests, the Secretary shall ensure, to the extent practicable, that assessments under this subsection cover geographically and ecologically diverse locations with significant ecological and economic impacts from hypoxia or harmful algal blooms. The Secretary shall establish a procedure for reviewing requests for local and regional assessments. The Secretary shall ensure, through consultation with Sea Grant Programs, that the findings of the assessments are communicated to the appropriate State, Indian tribe, and local governments, and to the general public.

(2) Purpose.—Local and regional assessments shall examine—

(A) the causes and ecological consequences, and the economic cost, of hypoxia or harmful algal blooms in that area;

(B) potential methods to prevent, control, and mitigate hypoxia or harmful algal blooms in that area and the potential ecological and economic costs and benefits of such methods; and

(C) other topics the Task Force considers appropriate.

(f) Scientific Assessment of Freshwater Harmful Algal Blooms.—(1) Not later than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004] the Task Force shall complete and submit to Congress a scientific assessment of current knowledge about harmful algal blooms in freshwater, such as the Great Lakes and upper reaches of estuaries, including a research plan for coordinating Federal efforts to better understand freshwater harmful algal blooms.

(2) The freshwater harmful algal bloom scientific assessment shall—

(A) examine the causes and ecological consequences, and the economic costs, of harmful algal blooms with significant effects on freshwater, including estimations of the frequency and occurrence of significant events;

(B) establish priorities and guidelines for a competitive, peer-reviewed, merit-based interagency research program, as part of the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) project, to better understand the causes, characteristics, and impacts of harmful algal blooms in freshwater locations; and

(C) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms in freshwater locations.

(g) Scientific Assessments of Hypoxia.—(1) Not less than once every 5 years the Task Force shall complete and submit to the Congress a scientific assessment of hypoxia in United States coastal waters including the Great Lakes. The first such assessment shall be completed not less than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004].

(2) The assessments under this subsection shall—

(A) examine the causes and ecological consequences, and the economic costs, of hypoxia;

(B) describe the potential ecological and economic costs and benefits of possible policy and management actions for preventing, controlling, and mitigating hypoxia;

(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of hypoxia, including recommendations of how to eliminate significant gaps in hypoxia modeling and monitoring data; and

(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on hypoxia.

(h) Scientific Assessments of Harmful Algal Blooms.—(1) Not less than once every 5 years the Task Force shall complete and submit to Congress a scientific assessment of harmful algal blooms in United States coastal waters. The first such assessment shall be completed not later than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004] and shall consider only marine harmful algal blooms. All subsequent assessments shall examine both marine and freshwater harmful algal blooms, including those in the Great Lakes and upper reaches of estuaries.

(2) The assessments under this subsection shall—

(A) examine the causes and ecological consequences, and economic costs, of harmful algal blooms;

(B) describe the potential ecological and economic costs and benefits of possible actions for preventing, controlling, and mitigating harmful algal blooms;

(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of harmful algal blooms; and

(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms.

(i) National Scientific Research, Development, Demonstration, and Technology Transfer Plan on Reducing Impacts From Harmful Algal Blooms.—(1) Not later than 12 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004], the Task Force shall develop and submit to Congress a plan providing for a comprehensive and coordinated national research program to develop and demonstrate prevention, control, and mitigation methods to reduce the impacts of harmful algal blooms on coastal ecosystems (including the Great Lakes), public health, and the economy.

(2) The plan shall—

(A) establish priorities and guidelines for a competitive, peer reviewed, merit based interagency research, development, demonstration, and technology transfer program on methods for the prevention, control, and mitigation of harmful algal blooms;

(B) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to the actions described in paragraph (1); and

(C) include to the maximum extent practicable diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Hispanics, Native Americans, Asian Pacific Americans, and other underrepresented populations.

(3) The Secretary of Commerce, in conjunction with other appropriate Federal agencies, shall establish a research, development, demonstration, and technology transfer program that meets the priorities and guidelines established under paragraph (2)(A). The Secretary shall ensure, through consultation with Sea Grant Programs, that the results and findings of the program are communicated to State, Indian tribe, and local governments, and to the general public.

#### **§604. NORTHERN GULF OF MEXICO HYPOXIA.**

(a) Assessment Report.—Not later than May 30, 1999, the Task Force shall complete and submit to Congress and the President an integrated assessment of hypoxia in the northern Gulf of Mexico that examines: the distribution, dynamics, and causes; ecological and economic consequences; sources and loads of nutrients transported by the Mississippi River to the Gulf of Mexico; effects of reducing nutrient loads; methods for reducing nutrient loads; and the social and economic costs and benefits of such methods.

(b) Submission of a Plan.—No later than March 30, 2000, the President, in conjunction with the chief executive officers of the States, shall develop and submit to Congress a plan, based on the integrated assessment submitted under subsection (a), for reducing, mitigating, and controlling hypoxia in the northern Gulf of Mexico. In developing such plan, the President shall consult with State, Indian tribe, and local governments, academic, agricultural, industry, and environmental groups and representatives. Such plan shall include incentive-based partnership approaches. The plan shall also include the social and economic costs and benefits of the measures for reducing, mitigating, and controlling hypoxia. At least 90 days before the President submits such plan to the Congress, a summary of the proposed plan shall be published in the Federal Register for a public comment period of not less than 60 days.

#### **§605. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary of Commerce for research, education, and monitoring activities related to the prevention, reduction, and control of harmful algal blooms and hypoxia, \$15,000,000 for fiscal year 1999, \$18,250,000 for fiscal year 2000, \$19,000,000 for fiscal year 2001, \$23,500,000 for fiscal year 2005, \$24,500,000 for fiscal year 2006, \$25,000,000 for fiscal year 2007, and \$30,000,000 for each of fiscal years 2008 through 2010, to remain available until expended. The Secretary shall consult with the States on a regular basis regarding the development and implementation of the activities authorized under this section. Of such amounts for each fiscal year—

(1) \$1,500,000 for fiscal year 1999, \$1,500,000 for fiscal year 2000, \$2,000,000 for fiscal year 2001, and \$2,500,000 for each of fiscal years 2005 through 2010 may be used to enable the National Oceanic and Atmospheric Administration to carry out research and assessment activities, including procurement of necessary research equipment, at research laboratories of the National Ocean Service and the National Marine Fisheries Service;

(2) \$4,000,000 for fiscal year 1999, \$5,500,000 for fiscal year 2000, \$5,500,000 for fiscal year 2001, and \$6,500,000, of which \$1,000,000 shall be used for the research program described in section 603(f)(2)(B), for each of fiscal years 2005 through 2010 may be used to carry out the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) project under the Coastal Ocean Program established under section 201(c) of Public Law 102–567 [106 Stat. 4280];

(3) \$1,000,000 for fiscal year 1999, \$2,000,000 for fiscal year 2000, \$2,000,000 for fiscal year 2001, and \$3,000,000 for each of fiscal years 2005 through 2010 may be used by the National Ocean Service of the National Oceanic and Atmospheric Administration to carry out a peer-reviewed research project on management measures that can be taken to prevent, reduce, control, and mitigate harmful algal blooms and to carry out section 603(d);

(4) \$5,500,000 for each of the fiscal years 1999, 2000, 2001, and \$6,000,000 for each of fiscal years 2005 through 2010 may be used to carry out Federal and State annual monitoring and analysis activities for harmful algal blooms administered by the National Ocean Service of the National Oceanic and Atmospheric Administration;

(5) \$3,000,000 for fiscal year 1999, \$3,750,000 for fiscal year 2000, \$4,000,000 for fiscal year 2001, \$4,000,000 for fiscal year 2005, \$5,000,000 for fiscal year 2006, \$5,500,000 for fiscal year 2007, and \$6,000,000 for each of fiscal years 2008 through 2010 may be used for activities related to research and monitoring on hypoxia by the National Ocean Service and the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration; and

(6) \$1,500,000 for each of fiscal years 2005 through 2010 to carry out section 603(e).

#### **§606. PROTECTION OF STATES' RIGHTS.**

(a) Nothing in this title shall be interpreted to adversely affect existing State regulatory or enforcement power which has been granted to any State through the Clean Water Act [33 U.S.C. 1251 et seq.] or Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.].

(b) Nothing in this title shall be interpreted to expand the regulatory or enforcement power of the Federal Government which has been delegated to any State through the Clean Water Act or Coastal Zone Management Act of 1972.

### **Findings and Purpose of Coastal Zone Act Reauthorization Amendments of 1990**

Section 6202 of Pub. L. 101–508 provided that:

(a) Findings.—Congress finds and declares the following:

(1) Our oceans, coastal waters, and estuaries constitute a unique resource. The condition of the water quality in and around the coastal areas is significantly declining. Growing human pressures on the coastal ecosystem will continue to degrade this resource until adequate actions and policies are implemented.

(2) Almost one-half of our total population now lives in coastal areas. By 2010, the coastal population will have grown from 80,000,000 in 1960 to 127,000,000 people, an increase of approximately 60 percent, and population density in coastal counties will be among the highest in the Nation.

(3) Marine resources contribute to the Nation's economic stability. Commercial and recreational fishery activities support an industry with an estimated value of \$12,000,000,000 a year.

(4) Wetlands play a vital role in sustaining the coastal economy and environment. Wetlands support and nourish fishery and marine resources. They also protect the Nation's shores from storm and wave damage. Coastal wetlands contribute an estimated \$5,000,000,000 to the production of fish and shellfish in the United States coastal waters. Yet, 50 percent of the Nation's coastal wetlands have been destroyed, and more are likely to decline in the near future.

(5) Nonpoint source pollution is increasingly recognized as a significant factor in coastal water degradation. In urban areas, storm water and combined sewer overflow are linked to major coastal problems, and in rural areas, run-off from agricultural activities may add to coastal pollution.

(6) Coastal planning and development control measures are essential to protect coastal water quality, which is subject to continued ongoing stresses. Currently, not enough is being done to manage and protect our coastal resources.

(7) Global warming results from the accumulation of man-made gases, released into the atmosphere from such activities as the burning of fossil fuels, deforestation, and the production of chlorofluorocarbons, which trap solar heat in the atmosphere and raise temperatures worldwide. Global warming could result in significant global sea level rise



by 2050 resulting from ocean expansion, the melting of snow and ice, and the gradual melting of the polar ice cap. Sea level rise will result in the loss of natural resources such as beaches, dunes, estuaries, and wetlands, and will contribute to the salinization of drinking water supplies. Sea level rise will also result in damage to properties, infrastructures, and public works. There is a growing need to plan for sea level rise.

(8) There is a clear link between coastal water quality and land use activities along the shore. State management programs under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) are among the best tools for protecting coastal resources and must play a larger role, particularly in improving coastal zone water quality.

(9) All coastal States should have coastal zone management programs in place that conform to the Coastal Zone Management Act of 1972, as amended by this Act.

(b) Purpose.—It is the purpose of Congress in this subtitle [see Short Title of 1990 Amendment note above] to enhance the effectiveness of the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.] by increasing our understanding of the coastal environment and expanding the ability of State coastal zone management programs to address coastal environmental problems.

### **Establishment of Positions and Fixing of Compensation by Secretary of Commerce; Appointments**

Section 15(c) of Pub. L. 94–370 related to establishment and compensation of four new positions without regard to the provisions of chapter 51 of Title 5, Government Organization and Employees, prior to repeal by Pub. L. 99–272, title VI, §6045(3), Apr. 7, 1986, 100 Stat. 127.

### **Territorial Sea of United States**

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

### **Ex. Ord. No. 13554. Establishing the Gulf Coast Ecosystem Restoration Task Force**

Ex. Ord. No. 13554, Oct. 5, 2010, 75 F.R. 62313, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. The Gulf Coast is a national treasure. Its natural resources are an important economic engine for the entire United States; its waters sustain a diverse and vibrant ecosystem; and the Gulf's culture, natural beauty, and historic significance are unique. Each year, millions of tourists visit the Gulf to vacation, swim, boat, fish, hunt,

and bird-watch; and, together, the Gulf's tourism and commercial and recreational fishing industries make a significant contribution to the United States economy. More than 90 percent of the Nation's offshore oil and gas is produced in the Gulf, and it is where nearly one-third of seafood production in the continental United States is harvested.

The United States needs a vibrant Gulf Coast, and the Federal Government is committed to helping Gulf Coast residents conserve and restore resilient and healthy ecosystems in the Gulf of Mexico and surrounding regions that support the diverse economies, communities, and cultures of the region. To effectively address the damage caused by the BP Deepwater Horizon Oil Spill, address the longstanding ecological decline, and begin moving toward a more resilient Gulf Coast ecosystem, ecosystem restoration is needed. Ecosystem restoration will support economic vitality, enhance human health and safety, protect infrastructure, enable communities to better withstand impact from storms and climate change, sustain safe seafood and clean water, provide recreational and cultural opportunities, protect and preserve sites that are of historical and cultural significance, and contribute to the overall resilience of our coastal communities and Nation.

In order to achieve these objectives, it is necessary that Federal efforts be efficiently integrated with those of local stakeholders and that particular focus be given to innovative solutions and complex, large-scale restoration projects. Efforts must be science-based and well-coordinated to minimize duplication and ensure effective delivery of services. This order establishes a Gulf Coast Ecosystem Restoration Task Force to coordinate intergovernmental responsibilities, planning, and exchange of information so as to better implement Gulf Coast ecosystem restoration and to facilitate appropriate accountability and support throughout the restoration process.

Sec. 2. Establishment of the Gulf Coast Ecosystem Restoration Task Force. There is established the Gulf Coast Ecosystem Restoration Task Force (Task Force).

(a) The Task Force shall consist of:

(1) A senior official from each of the following executive departments, agencies, and offices, selected by the head of the respective department, agency, or office:

- a. the Department of Defense;
- b. the Department of Justice;
- c. the Department of the Interior;
- d. the Department of Agriculture;

- e. the Department of Commerce;
- f. the Department of Transportation;
- g. the Environmental Protection Agency;
- h. the Office of Management and Budget;
- i. the Council on Environmental Quality;
- j. the Office of Science and Technology Policy;
- k. the Domestic Policy Council; and
- l. other executive departments, agencies, and offices as the President may, from time to time, designate.

(2) Five State representatives, appointed by the President upon recommendation of the Governors of each Gulf State, who shall be elected officers of State governments (or their designated employees with authority to act on their behalf) acting in their official capacities.

(b) The Task Force may include representatives from affected tribes, who shall be elected officers of those tribes (or their designated employees with authority to act on their behalf) acting in their official capacities. The Task Force shall, in collaboration with affected tribes, determine an appropriate structure for tribal participation in matters within the scope of the Task Force's responsibilities.

(c) The President shall designate a Chair of the Task Force from among senior officials of executive departments, agencies, and offices represented on the Task Force. The Chair shall lead the coordination of intergovernmental Gulf Coast ecosystem restoration efforts and oversee the work of the Task Force. The Chair shall regularly convene and preside at meetings of the Task Force, determine its agenda, and direct its work. The Chair's duties shall also include:

(1) facilitating a smooth transition from the response phase of addressing the BP Deepwater Horizon Oil Spill to the restoration phase;

(2) communicating and engaging with States, tribes, local governments, other stakeholders in the Gulf Coast region, and the public on ecosystem restoration, as well as other aspects of Gulf recovery, including economic recovery and public health efforts; and

(3) coordinating the efforts of executive departments, agencies, and offices related to the functions of the Task Force.

(d) Representatives of the Gulf States under subsection (a)(2) of this section shall select from among themselves a Vice-Chair of the Task Force.

Sec. 3. Functions of the Task Force. The Task Force shall be an advisory body to:

(a) coordinate intergovernmental efforts to improve efficiency and effectiveness in the implementation of Gulf Coast ecosystem restoration actions;

(b) support the Natural Resource Damage Assessment process by referring potential ecosystem restoration actions to the Natural Resource Damage Assessment Trustee Council for consideration and facilitating coordination among the relevant departments, agencies, and offices, as appropriate, subject to the independent statutory responsibilities of the trustees;

(c) present to the President a Gulf of Mexico Regional Ecosystem Restoration Strategy (Strategy) as provided in section 4 of this order;

(d) engage local stakeholders, communities, the public, and other officials throughout the Gulf Coast region to ensure that they have an opportunity to share their needs and viewpoints to inform the work of the Task Force, including the development of the Strategy;

(e) provide leadership and coordination of research needs in support of ecosystem restoration planning and decisionmaking in the Gulf Coast region, and work with existing Federal and State advisory committees, as appropriate, to facilitate consideration of relevant scientific and technical knowledge;

(f) prepare a biennial update for the President on progress toward the goals of Gulf Coast ecosystem restoration, as outlined in the Strategy;

(g) communicate with affected tribes in a manner consistent with Executive Order 13175 of November 6, 2000, on consultation and coordination with Indian tribal governments; and

(h) coordinate with relevant executive departments, agencies, and offices on ways to encourage health and economic benefits associated with proposed ecosystem restoration actions.

Sec. 4. Gulf of Mexico Regional Ecosystem Restoration Strategy. (a) Within 1 year of the date of this order, the Task Force shall prepare a Strategy that proposes a Gulf Coast ecosystem restoration agenda, including goals for ecosystem restoration, development of

a set of performance indicators to track progress, and means of coordinating intergovernmental restoration efforts guided by shared priorities. In developing the Strategy, the Task Force shall:

(1) define ecosystem restoration goals and describe milestones for making progress toward attainment of those goals;

(2) consider existing research and ecosystem restoration planning efforts in the region, including initiatives undertaken by the National Ocean Council and the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force (Gulf Hypoxia Task Force), in order to identify planning and restoration needs and ways under existing authorities to address those needs;

(3) identify major policy areas where coordinated intergovernmental action is necessary;

(4) propose new programs or actions to implement elements of the Strategy where existing authorities are not sufficient;

(5) identify monitoring, research, and scientific assessments needed to support decisionmaking for ecosystem restoration efforts and evaluate existing monitoring programs and gaps in current data collection; and

(6) describe the circumstances under which termination of the Task Force would be appropriate.

(b) The executive departments, agencies, and offices enumerated in section 2(a)(1) of this order shall, to the extent permitted by law, consider ways to align their relevant programs and authorities with the Strategy.

Sec. 5. Administration. (a) The Task Force shall have a staff, headed by an Executive Director, which shall provide support for the functions of the Task Force.

(b) The Executive Director shall be selected by the Chair and shall supervise, direct, and be accountable for the administration and operation of the Task Force.

(c) The Departments of Commerce (through the National Oceanic and Atmospheric Administration), the Interior (through the Fish and Wildlife Service), and Justice shall identify linkages and opportunities for the Task Force to complement the restoration progress of the Natural Resource Damage Assessment Trustee Council.

(d) At the request of the Chair, executive departments and agencies, including the Departments of Labor, Health and Human Services, Energy, and Homeland Security, the Small Business Administration, and the National Science Foundation, shall serve in an advisory role to the Task Force on issues within their expertise.

(e) The Task Force may establish such technical working groups as necessary to support its function. These working groups may include additional representatives from State and tribal governments, as appropriate, to provide for greater collaboration.

(f) The first meeting of the Task Force shall be held within 90 days of the date of this order.

Sec. 6. Definitions. (a) “Affected tribe” means any Indian tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe as defined in [section 102(2) of] the Federally Recognized [Indian] Tribe List Act of 1994 (25 U.S.C. 479a(2)), physically located in a Gulf State.

(b) “Ecosystem restoration” means all activities, projects, methods, and procedures appropriate to enhance the health and resilience of the Gulf Coast ecosystem, as measured in terms of the physical, biological, or chemical properties of the ecosystem, or the services it provides, and to strengthen its ability to support the diverse economies, communities, and cultures of the region. It includes activity that initiates or accelerates the recovery of an ecosystem with respect to its health, integrity, and sustainability. It also includes protecting and conserving ecosystems so they can continue to reduce impacts from tropical storms and other disasters, support robust economies, and assist in mitigating and adapting to the impacts of climate change.

(c) “Gulf State” means any of the States of Texas, Louisiana, Mississippi, Alabama, and Florida.

(d) “Natural Resource Damage Assessment” means the process of collecting and analyzing information to evaluate the nature and extent of natural resource injuries resulting from the BP Deepwater Horizon Oil Spill and to determine the restoration actions needed to bring injured natural resources and services back to baseline conditions and make the environment and public whole for interim losses as defined in 15 CFR 990.30.

(e) “Natural Resource Damage Assessment Trustee Council” means the designated Federal, State, local, and tribal trustees as provided in 33 U.S.C. 2706, with trusteeship over natural resources injured, lost, or destroyed as a result of the BP Deepwater Horizon Oil Spill.

Sec. 7. General Provisions. (a) To the extent permitted by law and subject to the availability of appropriations, the department, agency, or office represented by the Chair shall provide the Task Force with such administrative services, funds, facilities, staff, and other support services as may be necessary for the Task Force to carry out its function.

(b) In addition to staff provided by the department, agency, or office represented by the Chair, other executive departments, agencies, and offices represented on the Task Force are requested to make services, staff, and facilities available to the Task Force for the performance of its function to the maximum extent practicable, to the extent permitted by law and subject to the availability of appropriations.

(c) Members of the Task Force shall serve without any additional compensation for their work on the Task Force.

(d) Nothing in this order shall be construed to impair or otherwise affect: (i) authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or (ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(e) Nothing in this order shall interfere with the statutory responsibilities and authority of the Natural Resource Damage Assessment Trustee Council or the individual trustees to carry out their statutory responsibilities to assess natural resource damages and implement restoration actions under 33 U.S.C. 2706 and other applicable law.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(g) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Barack Obama.

<sup>1</sup> So in original. The semicolon probably should be a period.

#### **§1452. Congressional declaration of policy**

The Congress finds and declares that it is the national policy—

(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development, which programs should at least provide for—

- (A) the protection of natural resources, including wetlands, flood plains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,
- (B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas likely to be affected by or vulnerable to sea level rise, land subsidence, and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands.<sup>1</sup>
- (C) the management of coastal development to improve, safeguard, and restore the quality of coastal waters, and to protect natural resources and existing uses of those waters,
- (D) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists,
- (E) public access to the coasts for recreation purposes,
- (F) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and esthetic coastal features,
- (G) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources,
- (H) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies,
- (I) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking,
- (J) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State and wildlife agencies, and
- (K) the study and development, in any case in which the Secretary considers it to be appropriate, of plans for addressing the adverse effects upon the coastal zone of land subsidence and of sea level rise; and



(3) to encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes, and improved predictability in governmental decisionmaking;

(4) to encourage the participation and cooperation of the public, state and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this chapter;

(5) to encourage coordination and cooperation with and among the appropriate Federal, State, and local agencies, and international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States; and

(6) to respond to changing circumstances affecting the coastal environment and coastal resource management by encouraging States to consider such issues as ocean uses potentially affecting the coastal zone.

(Pub. L. 89-454, title III, §303, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1281; amended Pub. L. 96-464, §3, Oct. 17, 1980, 94 Stat. 2060; Pub. L. 101-508, title VI, §6203(b), Nov. 5, 1990, 104 Stat. 1388-301; Pub. L. 102-587, title II, §2205(b)(2), Nov. 4, 1992, 106 Stat. 5050.)

### **Amendments**

**1992**—Par. (2). Pub. L. 102-587 made technical amendment to directory language of Pub. L. 101-508, §6203(b)(1). See 1990 Amendment note below.

**1990**—Par. (2). Pub. L. 101-508, §6203(b)(1), as amended by Pub. L. 102-587, substituted “as well as the needs for compatible” for “as well as to needs for”.

Par. (2)(B). Pub. L. 101-508, §6203(b)(2), substituted “likely to be affected by or vulnerable to sea level rise, land subsidence,” for “of subsidence”.

Par. (2)(C) to (J). Pub. L. 101-508, §6203(b)(3), redesignated subpars. (C) to (I) as (D) to (J), respectively, and added subpar. (C).

Par. (2)(K). Pub. L. 101-508, §6203(b)(4), added subpar. (K).

Par. (3). Pub. L. 101–508, §6203(b)(5), inserted “including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes,” after “hazardous areas.”

Pars. (5), (6). Pub. L. 101–508, §6203(b)(6), added pars. (5) and (6).

**1980**—Pub. L. 96–464, in amending section generally, expanded declaration of policy to provide for higher level of protection for significant natural coastal resources and inserted provisions for special area management planning to increase predictability for necessary coastal-dependent economic growth, improve hazard mitigation, and improve predictability in government decisionmaking.

<sup>1</sup> So in original. The period probably should be a comma.

### **§1453. Definitions**

For purposes of this chapter—

(1) The term “coastal zone” means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749) [48 U.S.C. 731 et seq.], the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 [48 U.S.C. 1801 et seq.], or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705), as applicable. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(2) The term “coastal resource of national significance” means any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal state to be of substantial biological or natural storm protective value.

(3) The term “coastal waters” means (A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes

and (B) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(4) The term “coastal state” means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this chapter, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa.

(5) The term “coastal energy activity” means any of the following activities if, and to the extent that (A) the conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion, or operation of any equipment or facility; and (B) any technical requirement exists which, in the determination of the Secretary, necessitates that the siting, construction, expansion, or operation of such equipment or facility be carried out in, or in close proximity to, the coastal zone of any coastal state;<sup>1</sup>

(i) Any outer Continental Shelf energy activity.

(ii) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas.

(iii) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deepwater port, as defined in section 1502(10)<sup>2</sup> of title 33).

For purposes of this paragraph, the siting, construction, expansion, or operation of any equipment or facility shall be “in close proximity to” the coastal zone of any coastal state if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

(6) The term “energy facilities” means any equipment or facility which is or will be used primarily—

(A) in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

(B) for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in subparagraph (A).

The term includes, but is not limited to (i) electric generating plants; (ii) petroleum refineries and associated facilities; (iii) gasification plants; (iv) facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (v) uranium enrichment or nuclear fuel processing facilities; (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases,

and refining complexes; (vii) facilities including deepwater ports, for the transfer of petroleum; (viii) pipelines and transmission facilities; and (ix) terminals which are associated with any of the foregoing.

(6a) The term “enforceable policy” means State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone.

(7) The term “estuary” means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(8) The term “estuarine sanctuary” means a research area which may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitutes to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(9) The term “Fund” means the Coastal Zone Management Fund established under section 1456a(b) of this title.

(10) The term “land use” means activities which are conducted in, or on the shorelands within, the coastal zone, subject to the requirements outlined in section 1456(g) of this title.

(11) The term “local government” means any political subdivision of, or any special entity created by, any coastal state which (in whole or part) is located in, or has authority over, such state's coastal zone and which (A) has authority to levy taxes, or to establish and collect user fees, or (B) provides any public facility or public service which is financed in whole or part by taxes or user fees. The term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

(12) The term “management program” includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this chapter, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(13) The term “outer Continental Shelf energy activity” means any exploration for, or any development or production of, oil or natural gas from the outer Continental Shelf (as defined in section 1331(a) of title 43) or the siting, construction, expansion, or operation

of any new or expanded energy facilities directly required by such exploration, development, or production.

(14) The term “person” means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any state; the Federal Government; any state, regional, or local government; or any entity of any such Federal, state, regional, or local government.

(15) The term “public facilities and public services” means facilities or services which are financed, in whole or in part, by any state or political subdivision thereof, including, but not limited to, highways and secondary roads, parking, mass transit, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care. Such term may also include any other facility or service so financed which the Secretary finds will support increased population.

(16) The term “Secretary” means the Secretary of Commerce.

(17) The term “special area management plan” means a comprehensive plan providing for natural resource protection and reasonable coastal-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of lands and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone.

(18) The term “water use” means a use, activity, or project conducted in or on waters within the coastal zone.

(Pub. L. 89–454, title III, §304, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1281; amended Pub. L. 94–370, §3, July 26, 1976, 90 Stat. 1013; Pub. L. 96–464, §4, Oct. 17, 1980, 94 Stat. 2061; Pub. L. 101–508, title VI, §6204, Nov. 5, 1990, 104 Stat. 1388–302; Pub. L. 102–587, title II, §2205(b)(3)–(7), Nov. 4, 1992, 106 Stat. 5050, 5051.)

### **References in Text**

The Submerged Lands Act, referred to in par. (1), is act May 22, 1953, ch. 65, 67 Stat. 29, as amended, which is classified generally to subchapters I and II (§§1301 et seq., 1311 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

Act of March 2, 1917, referred to in par. (1), is act Mar. 2, 1917, ch. 145, 39 Stat. 951, as amended, known as the Puerto Rican Federal Relations Act and also as the Jones Act, which is classified principally to chapter 4 (§731 et seq.) of Title 48, Territories and Insular Possessions. Section 8 of the Act is classified to section 749 of Title 48. For

complete classification of this Act to the Code, see Short Title note set out under section 731 of Title 48 and Tables.

Act of March 24, 1976, referred to in par. (1), is Pub. L. 94–241, Mar. 24, 1976, 90 Stat. 263, as amended, which is classified generally to subchapter I (§1801 et seq.) of chapter 17 of Title 48. The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America is set out as a note under section 1801 of Title 48. For complete classification of this Act to the Code, see Tables.

Section 1 of the Act of November 20, 1963, referred to in par. (1), is section 1 of Pub. L. 88–183, Nov. 20, 1963, 77 Stat. 338, which was classified to section 1701 of Title 48, and was repealed by Pub. L. 93–435, §5, Oct. 5, 1974, 88 Stat. 1212. See section 1705 of Title 48.

Section 1502 of title 33, referred to in par. (5)(iii), was subsequently amended, and section 1502(10) no longer defines the term “deepwater port”. However, such term is defined elsewhere in that section.

### **Amendments**

**1992**—Par. (1). Pub. L. 102–587, §2205(b)(3), made technical amendment to directory language of Pub. L. 101–508, §6204(a). See 1990 Amendment note below.

Pub. L. 102–587, §2205(b)(5), struck out “the outer limit of” before “the outer limit of State title”, and substituted “(48 U.S.C. 1705),” for “(48 U.S.C. 1705,”.

Par. (2). Pub. L. 102–587, §2205(b)(6), substituted “The term” for “the term”.

Par. (6a). Pub. L. 102–587, §2205(b)(4), made technical amendment to directory language of Pub. L. 101–508, §6204(b). See 1990 Amendment note below.

Par. (9). Pub. L. 102–587, §2205(b)(7), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “The term ‘Fund’ means the Coastal Energy Impact Fund established by section 1456a(h) of this title.”

**1990**—Par. (1). Pub. L. 101–508, §6204(a)(1), as amended by Pub. L. 102–587, §2205(b)(3), inserted “, and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise” before period at end of third sentence.

Pub. L. 101–508, §6204(a)(2), as amended by Pub. L. 102–587, §2205(b)(3), substituted “the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749), the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 (48 U.S.C. 1681 note), or

section 1 of the Act of November 20, 1963 (48 U.S.C. 1705, as applicable.” for “the United States territorial sea.” at end of second sentence.

Par. (6a). Pub. L. 101–508, §6204(b), as amended by Pub. L. 102–587, §2205(b)(4), added par. (6a).

Par. (18). Pub. L. 101–508, §6204(c), substituted “a use, activity, or project conducted in or on waters within the coastal zone” for “activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 1456(f) of this title”.

**1980**—Pars. (2) to (4). Pub. L. 96–464, §4(1)–(3), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), and in par. (4), as so redesignated, substituted “Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa” for “Guam and American Samoa”. Former par. (4) redesignated (5).

Pars. (5) to (16). Pub. L. 96–464, §4(1), redesignated pars. (4) to (15) as (5) to (16). Former par. (16) redesignated (17).

Pars. (17), (18). Pub. L. 96–464, §4(1), (4), (5), added par. (17) and redesignated former par. (17) as (18).

**1976**—Par. (1). Pub. L. 94–370, §3(1), redesignated par. (a) as (1), substituted “The term ‘coastal’ ” for “ ‘Coastal’ ”, and inserted “islands,” after “and includes”.

Par. (2). Pub. L. 94–370, §3(2), redesignated par. (b) as (2), substituted “The term ‘coastal’ ” for “ ‘Coastal’ ”, “(A)” for “(1)”, and “(B)” for “(2)”.

Par. (3). Pub. L. 94–370, §3(3), redesignated par. (c) as (3) and substituted “The term ‘coastal’ ” for “ ‘Coastal’.”

Pars. (4), (5). Pub. L. 94–370, §3(4), added pars. (4) and (5).

Par. (6). Pub. L. 94–370, §3(5), redesignated par. (d) as (6) and substituted “The term ‘estuary’ ” for “ ‘Estuary’.”

Par. (7). Pub. L. 94–370, §3(6), redesignated par. (e) as (7) and substituted “The term ‘estuarine’ ” for “ ‘Estuarine’ ” and “estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitutes” for “estuary, adjoining transitional areas, and adjacent uplands, constituting”.

Par. (8). Pub. L. 94–370, §3(7), added par. (8).

Par. (9). Pub. L. 94–370, §3(7), added par. (9), incorporating provisions of par. (i), which was struck out by Pub. L. 94–370, §3(11).

Par. (10). Pub. L. 94–370, §3(7), added par. (10).

Par. (11). Pub. L. 94–370, §3(8), redesignated par. (g) as (11) and substituted “The term ‘management program’ ” for “ ‘Management program’ .”

Pars. (12) to (14). Pub. L. 94–370, §3(9), added pars. (12) to (14).

Par. (15). Pub. L. 94–370, §3(9), added par. (15), incorporating provisions of par. (f), which was struck out by Pub. L. 94–370, §3(7).

Par. (16). Pub. L. 94–370, §3(10), redesignated par. (h) as (16) and substituted “The term ‘water use’ ” for “ ‘Water use’ .”

### **Termination of Trust Territory of the Pacific Islands**

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### **Proc. No. 5030. Exclusive Economic Zone**

Proc. No. 5030, Mar. 10, 1983, 48 F.R. 10605, provided:

WHEREAS the Government of the United States of America desires to facilitate the wise development and use of the oceans consistent with international law;

WHEREAS international law recognizes that, in a zone beyond its territory and adjacent to its territorial sea, known as the Exclusive Economic Zone, a coastal State may assert certain sovereign rights over natural resources and related jurisdiction; and

WHEREAS the establishment of an Exclusive Economic Zone by the United States will advance the development of ocean resources and promote the protection of the marine environment, while not affecting other lawful uses of the zone, including the freedoms of navigation and overflight, by other States;

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution and laws of the United States of America, do hereby proclaim the sovereign rights and jurisdiction of the United States of America and confirm also the rights and freedoms of all States within an Exclusive Economic Zone, as described herein.



The Exclusive Economic Zone of the United States is a zone contiguous to the territorial sea, including zones contiguous to the territorial sea of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (to the extent consistent with the Covenant and the United Nations Trusteeship Agreement), and United States overseas territories and possessions. The Exclusive Economic Zone extends to a distance 200 nautical miles from the baseline from which the breadth of the territorial sea is measured. In cases where the maritime boundary with a neighboring State remains to be determined, the boundary of the Exclusive Economic Zone shall be determined by the United States and other State concerned in accordance with equitable principles.

Within the Exclusive Economic Zone, the United States has, to the extent permitted by international law, (a) sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, both living and non-living, of the seabed and subsoil and the superjacent waters and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; and (b) jurisdiction with regard to the establishment and use of artificial islands, and installations and structures having economic purposes, and the protection and preservation of the marine environment.

This Proclamation does not change existing United States policies concerning the continental shelf, marine mammals and fisheries, including highly migratory species of tuna which are not subject to United States jurisdiction and require international agreements for effective management.

The United States will exercise these sovereign rights and jurisdiction in accordance with the rules of international law.

Without prejudice to the sovereign rights and jurisdiction of the United States, the Exclusive Economic Zone remains an area beyond the territory and territorial sea of the United States in which all States enjoy the high seas freedoms of navigation, overflight, the laying of submarine cables and pipelines, and other internationally lawful uses of the sea.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan.

<sup>1</sup> So in original. The semicolon probably should be a colon.

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

### **§1454. Submittal of State program for approval**

Any coastal state which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 1455 of this title.

(Pub. L. 89–454, title III, §305, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1282; amended Pub. L. 93–612, §1(1), Jan. 2, 1975, 88 Stat. 1974; Pub. L. 94–370, §4, July 26, 1976, 90 Stat. 1015; Pub. L. 101–508, title VI, §6205, Nov. 5, 1990, 104 Stat. 1388–302; Pub. L. 102–587, title II, §2205(b)(1)(A), Nov. 4, 1992, 106 Stat. 5050; Pub. L. 104–150, §2(a), (b)(1), June 3, 1996, 110 Stat. 1380.)

### **Amendments**

**1996**—Pub. L. 104–150, §2(b)(1), substituted “Submittal of State program for approval” for “Management program development grants” in section catchline, struck out “(b)” before “Any coastal state”, and struck out subsec. (a) which read as follows: “In fiscal years 1997, 1998, and 1999, the Secretary may make a grant annually to any coastal state without an approved program if the coastal state demonstrates to the satisfaction of the Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 1455 of this title. The amount of any such grant shall not exceed \$200,000 in any fiscal year, and shall require State matching funds according to a 4-to-1 ratio of Federal-to-State contributions. After an initial grant is made to a coastal state pursuant to this subsection, no subsequent grant shall be made to that coastal state pursuant to this subsection unless the Secretary finds that the coastal state is satisfactorily developing its management program. No coastal state is eligible to receive more than four grants pursuant to this subsection.”

Subsec. (a). Pub. L. 104–150, §2(a), substituted “1997, 1998, and 1999” for “1991, 1992, and 1993” and “four grants” for “two grants”.

**1992**—Pub. L. 102–587 substituted “coastal state” for “coastal State” in last sentence of subsec. (a) and in subsec. (b).

**1990**—Pub. L. 101–508 amended section generally, substituting present provisions for provisions which authorized management program development grants, established program requirements, set limits on grants, provided for grants for completion of development and implementation of management programs, provided for allocation of grants, reversion of unobligated grants, and grants to other political subdivisions, required submission of program for review and approval, and set forth an expiration date of grant authority.

**1976**—Subsec. (a). Pub. L. 94–370 incorporated existing provisions into par. (1), limiting applicability of such provisions to subsec. (c), and added par. (2).

Subsec. (b). Pub. L. 94–370 added pars. (7) to (9) and effective date provisions of such paragraphs after par. (9).

Subsec. (c). Pub. L. 94–370 substituted provision that grant should not exceed 80 per centum of a coastal state's costs for purposes described in subsection (a)(1) of this section for provision that grant should not exceed 66<sup>2</sup>/<sub>3</sub> per centum of the costs of the program in any one year, expanded to four the number of grants a state is eligible to receive pursuant to this subsection, and struck out provision that Federal funds received from other sources shall not be used to match such grants.

Subsec. (d). Pub. L. 94–370 substituted provisions authorizing Secretary to make grants annually to any coastal state for purposes described in subsection (a)(2) and setting forth eligibility prerequisites for initial implementation grants for provisions, which were incorporated into subsec. (h), authorizing Secretary to review and approve the state's submitted management program which on final approval terminates state's eligibility under this section, but commences state's eligibility under section 1455 of this title.

Subsec. (e). Pub. L. 94–370 restructured existing provisions into pars. (1) and (2), and as so restructured, substituted in provisions preceding par. (1) reference to shall be made to, and allocated among, the coastal states for reference to shall be allocated to the states, and in par. (1) inserted proviso relating to the waiver at the option of the Secretary of the 10 per centum maximum requirement.

Subsec. (f). Pub. L. 94–370 substituted “The amount of any grant” for “Grant” and “the coastal state” for “a state”.

Subsec. (g). Pub. L. 94–370 substituted “any coastal state” for “the state” and inserted “received by it” before “under this section”.

Subsecs. (h), (i). Pub. L. 94–370 added subsec. (h) which incorporated provisions of former subsec. (d), redesignated former subsec. (h) as (i), and substituted “September 30, 1979” for “June 30, 1977”.

**1975**—Subsec. (e). Pub. L. 93–612 inserted proviso relating to the waiver by the Secretary of the 1 per centum minimum requirement upon request by the coastal state.

### **Effective Date of 1996 Amendment**

Section 2(b)(3) of Pub. L. 104–150 provided that: “This subsection [amending this section and section 1456a of this title] shall take effect on October 1, 1999.”

## **§1455. Administrative grants**

### **(a) Authorization; matching funds**

The Secretary may make grants to any coastal state for the purpose of administering that State's management program, if the State matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

- (1) For those States for which programs were approved prior to November 5, 1990, 1 to 1 for any fiscal year.
- (2) For programs approved after November 5, 1990, 4 to 1 for the first fiscal year, 2.3 to 1 for the second fiscal year, 1.5 to 1 for the third fiscal year, and 1 to 1 for each fiscal year thereafter.

**(b) Grants to coastal states; requirements**

The Secretary may make a grant to a coastal state under subsection (a) of this section only if the Secretary finds that the management program of the coastal state meets all applicable requirements of this chapter and has been approved in accordance with subsection (d) of this section.

**(c) Allocation of grants to coastal states**

Grants under this section shall be allocated to coastal states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Secretary shall establish, after consulting with the coastal states, maximum and minimum grants for any fiscal year to promote equity between coastal states and effective coastal management.

**(d) Mandatory adoption of State management program for coastal zone**

Before approving a management program submitted by a coastal state, the Secretary shall find the following:

- (1) The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this chapter and is consistent with the policy declared in section 1452 of this title.
- (2) The management program includes each of the following required program elements:
  - (A) An identification of the boundaries of the coastal zone subject to the management program.

(B) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

(C) An inventory and designation of areas of particular concern within the coastal zone.

(D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

(E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

(F) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, areawide, State, regional, and interstate agencies in the management process.

(G) A definition of the term “beach” and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of the impacts resulting from such facilities.

(I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.

(3) The State has—

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

(i) existing on January 1 of the year in which the State's management program is submitted to the Secretary; and

(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (6) and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in

carrying out the purposes of this chapter; except that the Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

(ii) within the 30-day period commencing on the date of receipt of that notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

(I) shall consider the comments;

(II) may, in its discretion, hold a public hearing on the comments; and

(III) may not take any action within the 30-day period to implement the management program decision.

(4) The State has held public hearings in the development of the management program.

(5) The management program and any changes thereto have been reviewed and approved by the Governor of the State.

(6) The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

(7) The State is organized to implement the management program.

(8) The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

(9) The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

(10) The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority

for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(A) to administer land use and water use regulations to control development<sup>1</sup> to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(11) The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

(B) Direct State land and water use planning and regulation.

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(12) The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

(13) The management program provides for—

(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

(B) specific and enforceable standards to protect such resources.

(14) The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

(15) The management program provides a mechanism to ensure that all State agencies will adhere to the program.

(16) The management program contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 1455b of this title.

**(e) Amendment or modification of State management program for coastal zone**

A coastal state may amend or modify a management program which it has submitted and which has been approved by the Secretary under this section, subject to the following conditions:

(1) The State shall promptly notify the Secretary of any proposed amendment, modification, or other program change and submit it for the Secretary's approval. The Secretary may suspend all or part of any grant made under this section pending State submission of the proposed amendments, modification, or other program change.

(2) Within 30 days after the date the Secretary receives any proposed amendment, the Secretary shall notify the State whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days after the date the Secretary received the proposed amendment. The Secretary may extend this period only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If the Secretary does not notify the coastal state that the Secretary approves or disapproves the amendment within that period, then the amendment shall be conclusively presumed as approved.

(3)(A) Except as provided in subparagraph (B), a coastal state may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Secretary under this subsection.

(B) The Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, modification, or change. This preliminary approval shall not extend for more than 6 months and may not be renewed. A proposed amendment, modification, or change which has been given preliminary approval and is not finally approved under this paragraph shall not be considered an enforceable policy for purposes of section 1456 of this title.

(Pub. L. 89-454, title III, §306, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1283; amended Pub. L. 93-612, §1(2), Jan. 2, 1975, 88 Stat. 1974; Pub. L. 94-370, §5, July 26, 1976, 90 Stat. 1017; Pub. L. 96-464, §5(a), Oct. 17, 1980, 94 Stat. 2062; Pub. L. 99-272, title VI, §6043(b)(1), (c), Apr. 7, 1986, 100 Stat. 124, 125; Pub. L. 101-508, title VI, §6206(a), Nov. 5, 1990, 104 Stat. 1388-303; Pub. L. 102-587, title II, §2205(b)(1)(A), (B), (8), Nov. 4, 1992, 106 Stat. 5050, 5051.)

**References in Text**



The National Environmental Policy Act of 1969, referred to in subsec. (e)(2), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

### **Amendments**

**1992**—Subsecs. (a) to (d), (e)(2), (3)(A). Pub. L. 102-587 substituted “coastal state” and “coastal states” for “coastal State” and “coastal States”, respectively, wherever appearing, and substituted period for semicolon at end of subsec. (b).

**1990**—Pub. L. 101-508 amended section generally, substituting present provisions for provisions which authorized grants for administering a state management program, provided for a ratio of Federal to State contributions, allocation of grants, program requirements, required authority for management of coastal zone, required findings prior to approval of grants, allocation to other political subdivisions, program modification, segmental development, and inventory and designation of areas of national significance and standards for protection of coastal resources.

**1986**—Subsec. (a). Pub. L. 99-272, §6043(b)(1), amended introductory text generally, which prior to amendment read as follows: “The Secretary may make grants to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary—”.

Subsec. (g). Pub. L. 99-272, §6043(c), inserted “, and subject to the following conditions:” in provisions preceding par. (1), added pars. (1) to (3), and struck out provision that except with respect to any management program amendment which was made before Oct. 1, 1978, for the purpose of complying with the requirements of section 1454(b)(7), (8) and (9) of this title, no grant was to be made under this section to any coastal state after the date of such amendment or modification, until the Secretary approved such amendment or modification.

**1980**—Subsec. (a). Pub. L. 96-464, §5(a)(1), in opening text, substituted “The Secretary may make grants” for “The Secretary may make a grant annually”, added par. (3), and provision following par. (3) which defined the costs of administering a management program.

Subsec. (b). Pub. L. 96-464, §5(2), struck out proviso that no annual grant made under this section shall be in excess of \$2,000,000 for fiscal year 1975, in excess of \$2,500,000 for fiscal year 1976, and in excess of \$3,000,000 for fiscal year 1977.

Subsec. (i). Pub. L. 96-464, §5(a)(3), added subsec. (i).

**1976**—Subsec. (a). Pub. L. 94–370, §5(1), raised the federal share of grants to 80 per centum from 662/3 per centum of the cost of administering a state's management program, substituted requirement that Secretary approve state's management program in accordance with subsecs. (c), (d), and (e) and find that such programs meet requirements under section 1454(b) of this title for requirement that Secretary approve state's management programs in accordance with subsec. (c), and struck out proviso that Federal funds from other sources shall not be used to pay the state's share of costs.

Subsec. (c)(2)(B). Pub. L. 94–370, §5(2), inserted provisions that mechanism not be found to be effective by Secretary until management agency meets certain requirement such as notice to affected zoning authority, 30-day period for zoning authority to respond with recommendations, and action to be taken by management agency where zoning authority does submit recommendations.

Subsec. (c)(8). Pub. L. 94–370, §5(3), inserted “planning for, and” before “in the siting of” and reference to energy facilities in, or which significantly affect, such state's coastal zone and inserted proviso that in the case of energy facilities, the Secretary shall find that the state has given consideration to any applicable interstate energy plan or program.

Subsec. (g). Pub. L. 94–370, §5(4), inserted requirement that except for pre-Oct. 1, 1978 amendments of management programs, for purposes of complying with section 1454(b)(7), (8), and (9) of this title, no grant shall be made under this section to any coastal state after the date of an amendment until approved by Secretary.

**1975**—Subsec. (b). Pub. L. 93–612 substituted provisos establishing maximum amount of annual grant for fiscal years 1975, 1976, and 1977, establishing a minimum of 1 per centum of the total appropriated amount, and providing for waiver of the 1 per centum minimum upon request of the coastal State, for proviso limiting an annual administrative grant to a maximum of 10 per centum and a minimum of 1 per centum of the total appropriated amount.

### **Effective Date of 1980 Amendment**

Section 5(b) of Pub. L. 96–464 provided that: “The amendments made by subsection (a)(1) and (2) of this section [amending this section] apply with respect to grants made after September 30, 1980, under section 306 of the Coastal Zone Management Act of 1972 [this section] and, within two hundred and seventy days after such date, the Secretary of Commerce shall issue regulations relating to the administration of subsection (a) of such section 306 (as so amended by such subsection (a)(1)).”

### **Additional Program Requirements**

Section 6206(b) of title VI of Pub. L. 101–508 provided that: “Each State which submits a management program for approval under section 306 of the Coastal Zone Management

Act of 1972 [16 U.S.C. 1455], as amended by this subtitle (including a State which submitted a program before the date of enactment of this Act [Nov. 5, 1990]), shall demonstrate to the Secretary—

“(1) that the program complies with section 306(d)(14) and (15) of that Act, by not later than 3 years after the date of the enactment of this Act; and

“(2) that the program complies with section 306(d)(16) of that Act, by not later than 30 months after the date of publication of final guidance under section 6217(g) of this Act [16 U.S.C. 1455b(g)].”

<sup>1</sup> So in original. Probably should be followed by a comma.

### **§1455a. Coastal resource improvement program**

#### **(a) Definitions**

For purposes of this section—

(1) The term “eligible coastal state” means a coastal state that for any fiscal year for which a grant is applied for under this section—

(A) has a management program approved under section 1455 of this title; and

(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 1452(2)(A) through (K) of this title.

(2) The term “urban waterfront and port” means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

#### **(b) Resource management improvement grants**

The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:

(1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures required by section 1455(d)(9) of this title because of their conservation recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance, or for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reef tracts.

(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated in the state's management program pursuant to section 1455(d)(2)(C) of this title as areas of particular concern.

(3) The provision of access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 1455(d)(2)(G) of this title.

(4) The development of a coordinated process among State agencies to regulate and issue permits for aquaculture facilities in the coastal zone.

**(c) Uses, terms and conditions of grants**

(1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

(2) Grants made under this section may be used for—

(A) the acquisition of fee simple and other interests in land;

(B) low-cost construction projects determined by the Secretary to be consistent with the purposes of this section, including but not limited to, paths, walkways, fences, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;

(C) in the case of grants made for objectives described in subsection (b)(2) of this section—

(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use, and

(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas, but activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in paragraph (B);

(D) engineering designs, specifications, and other appropriate reports; and

(E) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

**(d) State matching contributions; ratio; maximum amount of grants**

(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.

(2) Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

(3) The total amount of grants made under this section to any eligible coastal state for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

**(e) Allocation of grants to local governments and other agencies**

With the approval of the Secretary, an eligible coastal state may allocate to a local government, an areawide agency designated under section 3334 of title 42, a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program.

**(f) Other technical and financial assistance**

In addition to providing grants under this section, the Secretary shall assist eligible coastal states and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section.

(Pub. L. 89-454, title II, §306A, as added Pub. L. 96-464, §6, Oct. 17, 1980, 94 Stat. 2062; amended Pub. L. 99-272, title VI, §6043(b)(2), Apr. 7, 1986, 100 Stat. 124; Pub. L. 101-508, title VI, §§6207, 6216(a), Nov. 5, 1990, 104 Stat. 1388-307, 1388-314; Pub. L. 102-587, title II, §2205(b)(9)-(12), Nov. 4, 1992, 106 Stat. 5051; Pub. L. 104-150, §7(1), June 3, 1996, 110 Stat. 1381.)

**Amendments**

**1996**—Subsec. (b)(4). Pub. L. 104-150 added par. (4).

**1992**—Subsec. (a)(1)(B). Pub. L. 102–587, §2205(b)(10), substituted “through (K)” for “through (I)”.

Subsec. (b)(1). Pub. L. 102–587, §2205(b)(9), made technical amendment to directory language of Pub. L. 101–508, §6216(a). See 1990 Amendment note below.

Subsec. (b)(2). Pub. L. 102–587, §2205(b)(11)(A), substituted “that are designated in the state's management program pursuant to section 1455(d)(2)(C) of this title as areas of particular concern” for “that are designated under section 1454(b)(3) of this title in the state's management program as areas of particular concern”.

Subsec. (b)(3). Pub. L. 102–587, §2205(b)(11)(B), substituted “access to” for “access of” and “1455(d)(2)(G)” for “1454(b)(7)”.

Subsec. (c)(2)(C). Pub. L. 102–587, §2205(b)(12), in closing provisions, substituted “shall not be” for “shall not by”.

**1990**—Subsec. (b)(1). Pub. L. 101–508, §6216(a), as amended by Pub. L. 102–587, §2205(b)(9), substituted “1455(d)(9)” for “1455(c)(9)”.

Pub. L. 101–508, §6207, inserted before period at end “, or for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reef tracts”.

**1986**—Subsec. (d)(1). Pub. L. 99–272 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “No grant made under this section may exceed an amount equal to 80 per centum of the cost of carrying out the purpose or project for which it was awarded.”

## **§1455b. Protecting coastal waters**

### **(a) In general**

#### **(1) Program development**

Not later than 30 months after the date of the publication of final guidance under subsection (g) of this section, each State for which a management program has been approved pursuant to section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455] shall prepare and submit to the Secretary and the Administrator a Coastal Nonpoint Pollution Control Program for approval pursuant to this section. The purpose of the program shall be to develop and implement management measures for nonpoint source pollution to restore and protect coastal waters, working in close conjunction with other State and local authorities.

**(2) Program coordination**

A State program under this section shall be coordinated closely with State and local water quality plans and programs developed pursuant to sections 1288, 1313, 1329, and 1330 of title 33 and with State plans developed pursuant to the Coastal Zone Management Act of 1972, as amended by this Act [16 U.S.C. 1451 et seq.]. The program shall serve as an update and expansion of the State nonpoint source management program developed under section 1329 of title 33, as the program under that section relates to land and water uses affecting coastal waters.

**(b) Program contents**

Each State program under this section shall provide for the implementation, at a minimum, of management measures in conformity with the guidance published under subsection (g) of this section, to protect coastal waters generally, and shall also contain the following:

**(1) Identifying land uses**

The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of—

(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes; or

(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources.

**(2) Identifying critical coastal areas**

The identification of, and a continuing process for identifying, critical coastal areas adjacent to coastal waters referred to in paragraph (1)(A) and (B), within which any new land uses or substantial expansion of existing land uses shall be subject to management measures in addition to those provided for in subsection (g) of this section.

**(3) Management measures**

The implementation and continuing revision from time to time of additional management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that are necessary to achieve and maintain applicable water quality standards under section 1313 of title 33 and protect designated uses.

**(4) Technical assistance**

The provision of technical and other assistance to local governments and the public for implementing the measures referred to in paragraph (3), which may include assistance in developing ordinances and regulations, technical guidance, and modeling to predict and assess the effectiveness of such measures, training, financial incentives, demonstration projects, and other innovations to protect coastal water quality and designated uses.

**(5) Public participation**

Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means.

**(6) Administrative coordination**

The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project review, memoranda of agreement, or other mechanisms.

**(7) State coastal zone boundary modification**

A proposal to modify the boundaries of the State coastal zone as the coastal management agency of the State determines is necessary to implement the recommendations made pursuant to subsection (e) of this section. If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate State authority.

**(c) Program submission, approval, and implementation**

**(1) Review and approval**

Within 6 months after the date of submission by a State of a program pursuant to this section, the Secretary and the Administrator shall jointly review the program. The program shall be approved if—

(A) the Secretary determines that the portions of the program under the authority of the Secretary meet the requirements of this section and the Administrator concurs with that determination; and

(B) the Administrator determines that the portions of the program under the authority of the Administrator meet the requirements of this section and the Secretary concurs with that determination.

**(2) Implementation of approved program**



If the program of a State is approved in accordance with paragraph (1), the State shall implement the program, including the management measures included in the program pursuant to subsection (b) of this section, through—

(A) changes to the State plan for control of nonpoint source pollution approved under section 1329 of title 33; and

(B) changes to the State coastal zone management program developed under section 306 of the Coastal Zone Management Act of 1972, as amended by this Act [16 U.S.C. 1455].

**(3) Withholding coastal management assistance**

If the Secretary finds that a coastal State has failed to submit an approvable program as required by this section, the Secretary shall withhold for each fiscal year until such a program is submitted a portion of grants otherwise available to the State for the fiscal year under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], as follows:

(A) 10 percent for fiscal year 1996.

(B) 15 percent for fiscal year 1997.

(C) 20 percent for fiscal year 1998.

(D) 30 percent for fiscal year 1999 and each fiscal year thereafter.

The Secretary shall make amounts withheld under this paragraph available to coastal States having programs approved under this section.

**(4) Withholding water pollution control assistance**

If the Administrator finds that a coastal State has failed to submit an approvable program as required by this section, the Administrator shall withhold from grants available to the State under section 1329 of title 33, for each fiscal year until such a program is submitted, an amount equal to a percentage of the grants awarded to the State for the preceding fiscal year under that section, as follows:

(A) For fiscal year 1996, 10 percent of the amount awarded for fiscal year 1995.

(B) For fiscal year 1997, 15 percent of the amount awarded for fiscal year 1996.

(C) For fiscal year 1998, 20 percent of the amount awarded for fiscal year 1997.

(D) For fiscal year 1999 and each fiscal year thereafter, 30 percent of the amount awarded for fiscal year 1998 or other preceding fiscal year.

The Administrator shall make amounts withheld under this paragraph available to States having programs approved pursuant to this subsection.

**(d) Technical assistance**

The Secretary and the Administrator shall provide technical assistance to coastal States and local governments in developing and implementing programs under this section. Such assistance shall include—

- (1) methods for assessing water quality impacts associated with coastal land uses;
- (2) methods for assessing the cumulative water quality effects of coastal development;
- (3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to coastal States and local governments in identifying, developing, and implementing pollution control measures; and
- (4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

**(e) Inland coastal zone boundaries**

**(1) Review**

The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, within 18 months after November 5, 1990, review the inland coastal zone boundary of each coastal State program which has been approved or is proposed for approval under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], and evaluate whether the State's coastal zone boundary extends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

**(2) Recommendation**

If the Secretary, in consultation with the Administrator, finds that modifications to the inland boundaries of a State's coastal zone are necessary for that State to more effectively manage land and water uses to protect coastal waters, the Secretary, in consultation with the Administrator, shall recommend appropriate modifications in writing to the affected State.

**(f) Financial assistance**

**(1) In general**

Upon request of a State having a program approved under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], the Secretary, in consultation with the Administrator, may provide grants to the State for use for developing a State program under this section.

**(2) Amount**

The total amount of grants to a State under this subsection shall not exceed 50 percent of the total cost to the State of developing a program under this section.

**(3) State share**

The State share of the cost of an activity carried out with a grant under this subsection shall be paid from amounts from non-Federal sources.

**(4) Allocation**

Amounts available for grants under this subsection shall be allocated among States in accordance with regulations issued pursuant to section 306(c) of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455(c)], except that the Secretary may use not more than 25 percent of amounts available for such grants to assist States which the Secretary, in consultation with the Administrator, determines are making exemplary progress in preparing a State program under this section or have extreme needs with respect to coastal water quality.

**(g) Guidance for coastal nonpoint source pollution control****(1) In general**

The Administrator, in consultation with the Secretary and the Director of the United States Fish and Wildlife Service and other Federal agencies, shall publish (and periodically revise thereafter) guidance for specifying management measures for sources of nonpoint pollution in coastal waters.

**(2) Content**

Guidance under this subsection shall include, at a minimum—

(A) a description of a range of methods, measures, or practices, including structural and nonstructural controls and operation and maintenance procedures, that constitute each measure;

(B) a description of the categories and subcategories of activities and locations for which each measure may be suitable;

(C) an identification of the individual pollutants or categories or classes of pollutants that may be controlled by the measures and the water quality effects of the measures;

(D) quantitative estimates of the pollution reduction effects and costs of the measures;

(E) a description of the factors which should be taken into account in adapting the measures to specific sites or locations; and

(F) any necessary monitoring techniques to accompany the measures to assess over time the success of the measures in reducing pollution loads and improving water quality.

### **(3) Publication**

The Administrator, in consultation with the Secretary, shall publish—

(A) proposed guidance pursuant to this subsection not later than 6 months after November 5, 1990; and

(B) final guidance pursuant to this subsection not later than 18 months after November 5, 1990.

### **(4) Notice and comment**

The Administrator shall provide to coastal States and other interested persons an opportunity to provide written comments on proposed guidance under this subsection.

### **(5) Management measures**

For purposes of this subsection, the term “management measures” means economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

### **(h) Authorization of appropriations**

#### **(1) Administrator**

There is authorized to be appropriated to the Administrator for use for carrying out this section not more than \$1,000,000 for each of fiscal years 1992, 1993, and 1994.

**(2) Secretary**

(A) Of amounts appropriated to the Secretary for a fiscal year under section 318(a)(4)<sup>1</sup> of the Coastal Zone Management Act of 1972, as amended by this Act, not more than \$1,000,000 shall be available for use by the Secretary for carrying out this section for that fiscal year, other than for providing in the form of grants under subsection (f) of this section.

(B) There is authorized to be appropriated to the Secretary for use for providing in the form of grants under subsection (f) of this section not more than—

- (i) \$6,000,000 for fiscal year 1992;
- (ii) \$12,000,000 for fiscal year 1993;
- (iii) \$12,000,000 for fiscal year 1994; and
- (iv) \$12,000,000 for fiscal year 1995.

**(i) Definitions**

In this section—

- (1) the term “Administrator” means the Administrator of the Environmental Protection Agency;
- (2) the term “coastal State” has the meaning given the term “coastal state” under section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453);
- (3) each of the terms “coastal waters” and “coastal zone” has the meaning that term has in the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.];
- (4) the term “coastal management agency” means a State agency designated pursuant to section 306(d)(6) of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455(d)(6)];
- (5) the term “land use” includes a use of waters adjacent to coastal waters; and
- (6) the term “Secretary” means the Secretary of Commerce.

(Pub. L. 101–508, title VI, §6217, Nov. 5, 1990, 104 Stat. 1388–314; Pub. L. 102–587, title II, §2205(b)(24), Nov. 4, 1992, 106 Stat. 5052.)

**References in Text**

The Coastal Zone Management Act of 1972, referred to in subsecs. (a)(2) and (i)(3), is title III of Pub. L. 89–454 as added by Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to this chapter (§1451 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

This Act, referred to in subsecs. (a)(2) and (c)(2)(B), is Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388, known as the Omnibus Budget Reconciliation Act of 1990. For complete classification of this Act to the Code, see Tables.

Section 318(a) of the Coastal Zone Management Act of 1972, referred to in subsec. (h)(2)(A), which is classified to section 1464(a) of this title, was amended by Pub. L. 104–150, §4(1), June 3, 1996, 110 Stat. 1381, and, as so amended, does not contain a par. (4).

### **Codification**

Section was enacted as part of the Coastal Zone Act Reauthorization Amendments of 1990 and also as part of the Omnibus Budget Reconciliation Act of 1990, and not as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

### **Amendments**

**1992**—Subsec. (i)(3). Pub. L. 102–587 struck out comma after “ ‘coastal waters’ ” and inserted “Zone” before “Management”.

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

## **§1456. Coordination and cooperation**

### **(a) Federal agencies**

In carrying out his functions and responsibilities under this chapter, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

### **(b) Adequate consideration of views of Federal agencies**

The Secretary shall not approve the management program submitted by a state pursuant to section 1455 of this title unless the views of Federal agencies principally affected by such program have been adequately considered.

### **(c) Consistency of Federal activities with State management programs; Presidential exemption; certification**

(1)(A) Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs. A Federal agency activity shall be subject to this paragraph unless it is subject to paragraph (2) or (3).

(B) After any final judgment, decree, or order of any Federal court that is appealable under section 1291 or 1292 of title 28, or under any other applicable provision of Federal law, that a specific Federal agency activity is not in compliance with subparagraph (A), and certification by the Secretary that mediation under subsection (h) of this section is not likely to result in such compliance, the President may, upon written request from the Secretary, exempt from compliance those elements of the Federal agency activity that are found by the Federal court to be inconsistent with an approved State program, if the President determines that the activity is in the paramount interest of the United States. No such exemption shall be granted on the basis of a lack of appropriations unless the President has specifically requested such appropriations as part of the budgetary process, and the Congress has failed to make available the requested appropriations.

(C) Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 1455(d)(6) of this title at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with the enforceable policies of approved state management programs.

(3)(A) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity, in or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has

concurrent with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security.

(B) After the management program of any coastal state has been approved by the Secretary under section 1455 of this title, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land or water use or natural resource of the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with the enforceable policies of such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until—

(i) such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed; or

(iii) the Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security.

If a state concurs or is conclusively presumed to concur, or if the Secretary makes such a finding, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence or finding applies. If such state



objects to such certification and if the Secretary fails to make a finding under clause (iii) with respect to such certification, or if such person fails substantially to comply with such plan as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.

**(d) Application of local governments for Federal assistance; relationship of activities with approved management programs**

State and local governments submitting applications for Federal assistance under other Federal programs, in or outside of the coastal zone, affecting any land or water use of natural resource of the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of section 6506 of title 31. Federal agencies shall not approve proposed projects that are inconsistent with the enforceable policies of a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this chapter or necessary in the interest of national security.

**(e) Construction with other laws**

Nothing in this chapter shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

**(f) Construction with existing requirements of water and air pollution programs**

Notwithstanding any other provision of this chapter, nothing in this chapter shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act,

as amended [33 U.S.C. 1251 et seq.], or the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this chapter and shall be the water pollution control and air pollution control requirements applicable to such program.

**(g) Concurrence with programs which affect inland areas**

When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 1455 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

**(h) Mediation of disagreements**

In case of serious disagreement between any Federal agency and a coastal state—

(1) in the development or the initial implementation of a management program under section 1454 of this title; or

(2) in the administration of a management program approved under section 1455 of this title;

the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.

**(i) Application fee for appeals**

(1) With respect to appeals under subsections (c)(3) and (d) of this section which are submitted after November 5, 1990, the Secretary shall collect an application fee of not less than \$200 for minor appeals and not less than \$500 for major appeals, unless the Secretary, upon consideration of an applicant's request for a fee waiver, determines that the applicant is unable to pay the fee.

(2)(A) The Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (c) of this section.

(B) If the Secretary waives the application fee under paragraph (1) for an applicant, the Secretary shall waive all other fees under this subsection for the applicant.

(3) Fees collected under this subsection shall be deposited into the Coastal Zone Management Fund established under section 1456a of this title.

(Pub. L. 89–454, title III, §307, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1285; amended Pub. L. 94–370, §6, July 26, 1976, 90 Stat. 1018; Pub. L. 95–372, title V, §504, Sept. 18, 1978, 92 Stat. 693; Pub. L. 101–508, title VI, §6208, Nov. 5, 1990, 104 Stat. 1388–307; Pub. L. 102–587, title II, §2205(b)(13), (14), Nov. 4, 1992, 106 Stat. 5051.)

### **References in Text**

The Outer Continental Shelf Lands Act, referred to in subsec. (c)(3)(B), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (f), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Clean Air Act, referred to in subsec. (f), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

### **Codification**

In subsec. (d), “section 6506 of title 31” substituted for “title IV of the Intergovernmental Coordination [Cooperation] Act of 1968 [42 U.S.C. 4231 et seq.]” on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

### **Amendments**

**1992**—Subsec. (c)(3)(B). Pub. L. 102–587, §2205(b)(13), made technical amendment to directory language of Pub. L. 101–508, §6208(b)(3)(B). See 1990 Amendment note below.

Subsec. (i). Pub. L. 102–587, §2205(b)(14), designated existing provisions as par. (1), added pars. (2) and (3), and struck out at end of par. (1) “The Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (c) of this section.”

**1990**—Subsec. (c)(1). Pub. L. 101–508, §6208(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.”

Subsec. (c)(2). Pub. L. 101–508, §6208(b)(1), which directed the insertion of “the enforceable policies of” before “approved State management programs”, was executed by making the insertion before “approved state management programs” to reflect the probable intent of Congress.

Subsec. (c)(3)(A). Pub. L. 101–508, §6208(b)(2), in first sentence inserted “, in or outside of the coastal zone,” after “to conduct an activity”, substituted “any land or water use or natural resource of” for “land or water uses in”, and inserted “the enforceable policies of” after “the proposed activity complies with”.

Subsec. (c)(3)(B). Pub. L. 101–508, §6208(b)(3)(A), substituted “land or water use or natural resource of” for “land use or water use in” in first sentence.

Pub. L. 101–508, §6208(b)(3)(B), as amended by Pub. L. 102–587, §2205(b)(13), inserted “the enforceable policies of” after “such plan complies with” in first sentence.

Subsec. (d). Pub. L. 101–508, §6208(b)(4), substituted “, in or outside of the coastal zone, affecting any land or water use of natural resource of” for “affecting” and inserted “the enforceable policies of” after “that are inconsistent with”.

Subsec. (i). Pub. L. 101–508, §6208(c), added subsec. (i).

**1978**—Subsec. (c)(3)(B)(ii). Pub. L. 95–372 inserted “, except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed” after “as provided for in subparagraph (A)”.

**1976**—Subsec. (b). Pub. L. 94–370, §6(2), struck out provisions requiring that in case of serious disagreement between Federal agency and state in development of program,

Secretary shall seek to mediate the differences in cooperation with the Executive Office of the President and incorporated such provision into subsec. (h).

Subsec. (c)(3). Pub. L. 94-370, §6(3), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (h). Pub. L. 94-370, §6(4), added subsec. (h) which incorporates former provision of subsec. (b) relating to mediation by Secretary of disagreements between Federal agencies and state.

### **§1456-1. Authorization of the Coastal and Estuarine Land Conservation Program**

#### **(a) In general**

The Secretary may conduct a Coastal and Estuarine Land Conservation Program, in cooperation with appropriate State, regional, and other units of government, for the purposes of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural, undeveloped, or recreational state to other uses or could be managed or restored to effectively conserve, enhance, or restore ecological function. The program shall be administered by the National Ocean Service of the National Oceanic and Atmospheric Administration through the Office of Ocean and Coastal Resource Management.

#### **(b) Property acquisition grants**

The Secretary shall make grants under the program to coastal states with approved coastal zone management plans or National Estuarine Research Reserve units for the purpose of acquiring property or interests in property described in subsection (a) that will further the goals of—

- (1) a Coastal Zone Management Plan or Program approved under this chapter;
- (2) a National Estuarine Research Reserve management plan;
- (3) a regional or State watershed protection or management plan involving coastal states with approved coastal zone management programs; or
- (4) a State coastal land acquisition plan that is consistent with an approved coastal zone management program.

#### **(c) Grant process**

The Secretary shall allocate funds to coastal states or National Estuarine Research Reserves under this section through a competitive grant process in accordance with guidelines that meet the following requirements:

(1) The Secretary shall consult with the coastal state's coastal zone management program, any National Estuarine Research Reserve in that State, and the lead agency designated by the Governor for coordinating the implementation of this section (if different from the coastal zone management program).

(2) Each participating coastal state, after consultation with local governmental entities and other interested stakeholders, shall identify priority conservation needs within the State, the values to be protected by inclusion of lands in the program, and the threats to those values that should be avoided.

(3) Each participating coastal state shall to the extent practicable ensure that the acquisition of property or easements shall complement working waterfront needs.

(4) The applicant shall identify the values to be protected by inclusion of the lands in the program, management activities that are planned and the manner in which they may affect the values identified, and any other information from the landowner relevant to administration and management of the land.

(5) Awards shall be based on demonstrated need for protection and ability to successfully leverage funds among participating entities, including Federal programs, regional organizations, State and other governmental units, landowners, corporations, or private organizations.

(6) The governor, or the lead agency designated by the governor for coordinating the implementation of this section, where appropriate in consultation with the appropriate local government, shall determine that the application is consistent with the State's or territory's approved coastal zone plan, program, and policies prior to submittal to the Secretary.

(7)(A) Priority shall be given to lands described in subsection (a) that can be effectively managed and protected and that have significant ecological value.

(B) Of the projects that meet the standard in subparagraph (A), priority shall be given to lands that—

(i) are under an imminent threat of conversion to a use that will degrade or otherwise diminish their natural, undeveloped, or recreational state; and

(ii) serve to mitigate the adverse impacts caused by coastal population growth in the coastal environment.

(8) In developing guidelines under this section, the Secretary shall consult with coastal states, other Federal agencies, and other interested stakeholders with expertise in land acquisition and conservation procedures.

(9) Eligible coastal states or National Estuarine Research Reserves may allocate grants to local governments or agencies eligible for assistance under section 1455a(e) of this title.

(10) The Secretary shall develop performance measures that the Secretary shall use to evaluate and report on the program's effectiveness in accomplishing its purposes, and shall submit such evaluations to Congress triennially.

**(d) Limitations and private property protections**

(1) A grant awarded under this section may be used to purchase land or an interest in land, including an easement, only from a willing seller. Any such purchase shall not be the result of a forced taking under this section. Nothing in this section requires a private property owner to participate in the program under this section.

(2) Any interest in land, including any easement, acquired with a grant under this section shall not be considered to create any new liability, or have any effect on liability under any other law, of any private property owner with respect to any person injured on the private property.

(3) Nothing in this section requires a private property owner to provide access (including Federal, State, or local government access) to or use of private property unless such property or an interest in such property (including a conservation easement) has been purchased with funds made available under this section.

**(e) Recognition of authority to control land use**

Nothing in this chapter modifies the authority of Federal, State, or local governments to regulate land use.

**(f) Matching requirements**

**(1) In general**

The Secretary may not make a grant under the program unless the Federal funds are matched by non-Federal funds in accordance with this subsection.

**(2) Cost share requirement**

**(A) In general**

Grant funds under the program shall require a 100 percent match from other non-Federal sources.

**(B) Waiver of requirement**

The Secretary may grant a waiver of subparagraph (A) for underserved communities, communities that have an inability to draw on other sources of funding because of the small population or low income of the community, or for other reasons the Secretary deems appropriate and consistent with the purposes of the program.

**(3) Other Federal funds**

Where financial assistance awarded under this section represents only a portion of the total cost of a project, funding from other Federal sources may be applied to the cost of the project. Each portion shall be subject to match requirements under the applicable provision of law.

**(4) Source of matching cost share**

For purposes of paragraph (2)(A), the non-Federal cost share for a project may be determined by taking into account the following:

(A) The value of land or a conservation easement may be used by a project applicant as non-Federal match, if the Secretary determines that—

(i) the land meets the criteria set forth in section 2(b)<sup>1</sup> and is acquired in the period beginning 3 years before the date of the submission of the grant application and ending 3 years after the date of the award of the grant;

(ii) the value of the land or easement is held by a non-governmental organization included in the grant application in perpetuity for conservation purposes of the program; and

(iii) the land or easement is connected either physically or through a conservation planning process to the land or easement that would be acquired.

(B) The appraised value of the land or conservation easement at the time of the grant closing will be considered and applied as the non-Federal cost share.

(C) Costs associated with land acquisition, land management planning, remediation, restoration, and enhancement may be used as non-Federal match if the activities are identified in the plan and expenses are incurred within the period of the grant award, or, for lands described in <sup>2</sup> (A), within the same time limits described therein. These costs may include either cash or in-kind contributions.



**(g) Reservation of funds for National Estuarine Research Reserve sites**

No less than 15 percent of funds made available under this section shall be available for acquisitions benefitting National Estuarine Research Reserves.

**(h) Limit on administrative costs**

No more than 5 percent of the funds made available to the Secretary under this section shall be used by the Secretary for planning or administration of the program. The Secretary shall provide a report to Congress with an account of all expenditures under this section for fiscal year 2009 and triennially thereafter.

**(i) Title and management of acquired property**

If any property is acquired in whole or in part with funds made available through a grant under this section, the grant recipient shall provide—

(1) such assurances as the Secretary may require that—

(A) the title to the property will be held by the grant recipient or another appropriate public agency designated by the recipient in perpetuity;

(B) the property will be managed in a manner that is consistent with the purposes for which the land entered into the program and shall not convert such property to other uses; and

(C) if the property or interest in land is sold, exchanged, or divested, funds equal to the current value will be returned to the Secretary in accordance with applicable Federal law for redistribution in the grant process; and

(2) certification that the property (including any interest in land) will be acquired from a willing seller.

**(j) Requirement for property used for non-Federal match**

If the grant recipient elects to use any land or interest in land held by a non-governmental organization as a non-Federal match under subsection (g), the grant recipient must to the Secretary's satisfaction demonstrate in the grant application that such land or interest will satisfy the same requirements as the lands or interests in lands acquired under the program.

**(k) Definitions**

In this section:

**(1) Conservation easement**

The term “conservation easement” includes an easement or restriction, recorded deed, or a reserve interest deed where the grantee acquires all rights, title, and interest in a property, that do not conflict with the goals of this section except those rights, title, and interests that may run with the land that are expressly reserved by a grantor and are agreed to at the time of purchase.

**(2) Interest in property**

The term “interest in property” includes a conservation easement.

**(1) Authorization of appropriations**

There are authorized to be appropriated to the Secretary to carry out this section \$60,000,000 for each of fiscal years 2009 through 2013.

(Pub. L. 89–454, title III, §307A, as added Pub. L. 111–11, title XII, §12502, Mar. 30, 2009, 123 Stat. 1442.)

<sup>1</sup> So in original. Probably should be “subsection (b)”.

<sup>2</sup> So in original. Probably should be followed by “subparagraph”.

**§1456a. Coastal Zone Management Fund**

(a)(1) The obligations of any coastal state or unit of general purpose local government to repay loans made pursuant to this section as in effect before November 5, 1990, and any repayment schedule established pursuant to this chapter as in effect before November 5, 1990, are not altered by any provision of this chapter. Such loans shall be repaid under authority of this subsection and the Secretary may issue regulations governing such repayment. If the Secretary finds that any coastal state or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such State or unit, take any of the following actions:

(A) Modify the terms and conditions of such loan.

(B) Refinance the loan.

(C) Recommend to the Congress that legislation be enacted to forgive the loan.

(2) Loan repayments made pursuant to this subsection shall be retained by the Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under subsection (b) of this section.

(b)(1) The Secretary shall establish and maintain a fund, to be known as the “Coastal Zone Management Fund”, which shall consist of amounts retained and deposited into the Fund under subsection (a) of this section and fees deposited into the Fund under section 1456(i)(3) of this title.

(2) Subject to amounts provided in appropriation Acts, amounts in the Fund shall be available to the Secretary for use for the following:

(A) Expenses incident to the administration of this chapter, in an amount not to exceed for each of fiscal years 1997, 1998, and 1999 the higher of—

(i) \$4,000,000; or

(ii) 8 percent of the total amount appropriated under this chapter for the fiscal year.

(B) After use under subparagraph (A)—

(i) projects to address management issues which are regional in scope, including interstate projects;

(ii) demonstration projects which have high potential for improving coastal zone management, especially at the local level;

(iii) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

(iv) appropriate awards recognizing excellence in coastal zone management as provided in section 1460 of this title; and

(v) to provide financial support to coastal states for use for investigating and applying the public trust doctrine to implement State management programs approved under section 1455 of this title.

(Pub. L. 89–454, title III, §308, as added Pub. L. 94–370, §7, July 26, 1976, 90 Stat. 1019; amended Pub. L. 95–372, title V, §§501, 503(a)–(d), Sept. 18, 1978, 92 Stat. 690, 692, 693; Pub. L. 96–464, §7, Oct. 17, 1980, 94 Stat. 2064; Pub. L. 99–272, title VI, §6047, Apr. 7, 1986, 100 Stat. 128; Pub. L. 101–508, title VI, §6209, Nov. 5, 1990, 104 Stat. 1388–308; Pub. L. 102–587, title II, §2205(b)(1)(A), (B), (15)–(18), Nov. 4, 1992, 106 Stat. 5050, 5052; Pub. L. 104–150, §§2(b)(2), 5, June 3, 1996, 110 Stat. 1380, 1381.)

## Codification

Subsec. (b)(3) of this section, which required the Secretary to transmit to Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 143 of House Document No. 103–7.

## Amendments

**1996**—Subsec. (b)(2)(A). Pub. L. 104–150, §5(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: Expenses incident to the administration of this chapter, in an amount not to exceed—

- (i) \$5,000,000 for fiscal year 1991;
- (ii) \$5,225,000 for fiscal year 1992;
- (iii) \$5,460,125 for fiscal year 1993;
- (iv) \$5,705,830 for fiscal year 1994; and
- (v) \$5,962,593 for fiscal year 1995.

Subsec. (b)(2)(B)(iv) to (vi). Pub. L. 104–150, §2(b)(2), inserted “and” at end of cl. (iv), redesignated cl. (vi) as (v), and struck out former cl. (v) which read as follows: “program development grants as authorized by section 1454 of this title, in an amount not to exceed \$200,000 for each of fiscal years 1997, 1998, and 1999; and”.

Subsec. (b)(2)(B)(v). Pub. L. 104–150, §5(b), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: “program development grants as authorized by section 1454 of this title; and”.

**1992**—Pub. L. 102–587, §2205(b)(15), made technical amendment to Pub. L. 101–508. See 1990 Amendment note below.

Subsec. (a)(1). Pub. L. 102–587, §2205(b)(16), in first sentence, made technical amendment to reference to this chapter to reflect change in corresponding provision of original act.

Pub. L. 102–587, §2205(b)(1)(A), substituted “coastal state” for “coastal State” in two places.

Subsec. (b)(1). Pub. L. 102–587, §2205(b)(17), (18), struck out “(hereinafter in this section referred to as the ‘Fund’)” after “Management Fund” and inserted “and fees deposited into the Fund under section 1456(i)(3) of this title” after “subsection (a) of this section”.

Subsec. (b)(2)(B)(vi). Pub. L. 102–587, §2205(b)(1)(B), substituted “coastal states” for “coastal States”.

**1990**—Pub. L. 101–508, as amended by Pub. L. 102–587, §2205(b)(15), amended section generally, substituting present provisions for provisions authorizing a coastal energy impact program, providing for administration of program, audit, financial assistance, rules and regulations and guarantees, establishing eligibility requirements for assistance, creating a Coastal Energy Impact Fund, prohibiting interference in any land or water use decision of any coastal state, requiring reports to Congress, and providing for definitions for the section.

**1986**—Subsec. (h). Pub. L. 99–272 substituted “subsections (c)” for “subsections (c)(1)” wherever appearing.

**1980**—Subsec. (c)(3). Pub. L. 96–464, §7(1), added par. (3).

Subsec. (d)(4). Pub. L. 96–464, §7(2), struck out par. (4) which provided that the Secretary shall make grants to any coastal state to enable such state to prevent, reduce, or ameliorate any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource, if such loss results from coastal energy activity, if the Secretary finds that such state has not received amounts under subsec. (b) of this section which are sufficient to prevent, reduce, or ameliorate such loss.

**1978**—Subsec. (a)(1)(A). Pub. L. 95–372, §501(b)(1), substituted “subsection (b)(5) of this section” for “subsection (b)(4) of this section”.

Subsec. (a)(1)(B). Pub. L. 95–372, §503(b)(1), substituted “subsection (c)(1) of this section” for “subsection (c) of this section”.

Subsec. (a)(1)(C) to (G). Pub. L. 95–372, §503(b)(2), added subpar. (C) and redesignated former subpars. (C) to (F) as (D) to (G).

Subsec. (b)(2). Pub. L. 95–372, §501(a), substituted in provisions preceding subpar. (A) “Subject to paragraph (3), the amounts payable” for “The amounts granted” and “subparagraphs (A), (B), and (C)” for “subparagraphs (A), (B), (C), and (D)”, in subpar. (A) “one-half” for “one-third”, and in subpars. (B) and (C) “one-quarter” for “one-sixth” and struck out subpar. (D), which related to a ratio involving the number of individuals who obtain new employment as a result of new or expanded outer Continental Shelf energy activities.

Subsec. (b)(3). Pub. L. 95–372, §501(b)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 95–372, §501(b)(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 95–372, §501(b)(1), (c), redesignated par. (4) as (5) and, in par. (5) as so redesignated, struck out in subpar. (B)(i) provisions relating to the unavailability of adequate financing under any other subsection and inserted provisions following subpar. (B)(ii) authorizing the Secretary to describe the geographic areas in which the public facilities and public services referred to in subpar. (B)(i) shall be presumed to be required as a result of outer Continental Shelf energy activities for purposes of disbursing the proceeds of grants under this subsection. Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 95–372, §501(b)(1), redesignated par. (5) as (6) and, in par. (6) as so redesignated, in provisions preceding subpar. (A) and in subpar. (B) substituted “paragraph (5)” for “paragraph (4)”.

Subsec. (c). Pub. L. 95–372, §503(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 95–372, §503(c), substituted “subsections (c)(1)” for “subsections (c)” wherever appearing.

Subsec. (k). Pub. L. 95–372, §§501(b)(1), 503(d), substituted in par. (1) “subsection (b)(5)(B) and (c)(1)” for “subsection (b)(4)(B) and (c)” and in par. (2) “subsection (b)(5)(B)” for “(b)(4)(B)”.

### **Effective Date of 1996 Amendment**

Amendment by section 2(b)(2) of Pub. L. 104–150 effective Oct. 1, 1999, see section 2(b)(3) of Pub. L. 104–150, set out as a note under section 1454 of this title.

### **Extension of Authority To Make Loans Under Subsection (d)(1)**

Pub. L. 99–626, §6, Nov. 7, 1986, 100 Stat. 3506, provided that: “The authority of the Secretary of Commerce to make loans under paragraph (1) of subsection (d) of section 308 of the Coastal Zone Management Act of 1972 (Public Law 92–583, 16 U.S.C. 1451, et seq.) as amended [16 U.S.C. 1456a(d)(1)], shall extend to September 30, 1987, for loans made to eligible States or units pursuant to and in accord with agreements entered into between the Secretary and any State prior to September 30, 1986, that provided for a total sum of loans to be made to that State or its units, but such loan authority shall be limited to \$7,000,000.”

**§1456b. Coastal zone enhancement grants****(a) “Coastal zone enhancement objective” defined**

For purposes of this section, the term “coastal zone enhancement objective” means any of the following objectives:

- (1) Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.
- (2) Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.
- (3) Attaining increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value.
- (4) Reducing marine debris entering the Nation's coastal and ocean environment by managing uses and activities that contribute to the entry of such debris.
- (5) Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.
- (6) Preparing and implementing special area management plans for important coastal areas.
- (7) Planning for the use of ocean resources.
- (8) Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.
- (9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.

**(b) Limits on grants**

- (1) Subject to the limitations and goals established in this section, the Secretary may make grants to coastal states to provide funding for development and submission for

Federal approval of program changes that support attainment of one or more coastal zone enhancement objectives.

(2)(A) In addition to any amounts provided under section 1455 of this title, and subject to the availability of appropriations, the Secretary may make grants under this subsection to States for implementing program changes approved by the Secretary in accordance with section 1455(e) of this title.

(B) Grants under this paragraph to implement a program change may not be made in any fiscal year after the second fiscal year that begins after the approval of that change by the Secretary.

**(c) Evaluation of State proposals by Secretary**

The Secretary shall evaluate and rank State proposals for funding under this section, and make funding awards based on those proposals, taking into account the criteria established by the Secretary under subsection (d) of this section. The Secretary shall ensure that funding decisions under this section take into consideration the fiscal and technical needs of proposing States and the overall merit of each proposal in terms of benefits to the public.

**(d) Promulgation of regulations by Secretary**

Within 12 months following November 5, 1990, and consistent with the notice and participation requirements established in section 1463 of this title, the Secretary shall promulgate regulations concerning coastal zone enhancement grants that establish—

(1) specific and detailed criteria that must be addressed by a coastal state (including the State's priority needs for improvement as identified by the Secretary after careful consultation with the State) as part of the State's development and implementation of coastal zone enhancement objectives;

(2) administrative or procedural rules or requirements as necessary to facilitate the development and implementation of such objectives by coastal states; and

(3) other funding award criteria as are necessary or appropriate to ensure that evaluations of proposals, and decisions to award funding, under this section are based on objective standards applied fairly and equitably to those proposals.

**(e) No State contribution required**

A State shall not be required to contribute any portion of the cost of any proposal for which funding is awarded under this section.



**(f) Funding**

Beginning in fiscal year 1991, not less than 10 percent and not more than 20 percent of the amounts appropriated to implement sections 1455 and 1455a of this title shall be retained by the Secretary for use in implementing this section, up to a maximum of \$10,000,000 annually.

**(g) Eligibility; suspension of State for noncompliance**

If the Secretary finds that the State is not undertaking the actions committed to under the terms of the grant, the Secretary shall suspend the State's eligibility for further funding under this section for at least one year.

(Pub. L. 89-454, title III, §309, as added Pub. L. 94-370, §8, July 26, 1976, 90 Stat. 1028; amended Pub. L. 96-464, §8, Oct. 17, 1980, 94 Stat. 2064; Pub. L. 101-508, title VI, §6210, Nov. 5, 1990, 104 Stat. 1388-309; Pub. L. 102-587, title II, §2205(b)(1)(B), Nov. 4, 1992, 106 Stat. 5050; Pub. L. 104-150, §§3, 7(2), June 3, 1996, 110 Stat. 1380, 1382.)

**Codification**

November 5, 1990, referred to in subsec. (d), was in the original “the date of enactment of this section”, and was translated as meaning the date of enactment of section 6210 of Pub. L. 101-508, which amended this section generally, to reflect the probable intent of Congress.

**Amendments**

**1996**—Subsec. (a)(9). Pub. L. 104-150, §7(2), added par. (9).

Subsec. (b). Pub. L. 104-150, §3, designated existing provisions as par. (1) and added par. (2).

**1992**—Subsec. (b). Pub. L. 102-587 substituted “coastal states” for “coastal States”.

**1990**—Pub. L. 101-508 amended section generally, substituting present provisions for provisions providing for interstate grants and agreements for developing and administering coordinated coastal zone planning and programs, setting priorities for unified coastal zone policies in contiguous areas of coastal states, providing for a Federal-State consultation procedure, authorizing temporary planning and coordinated activity, and establishing eligibility of States to receive Federal assistance.

**1980**—Pub. L. 96-464 amended section generally and, among many changes, made a number of technical amendments, and inserted provision making it clear that only states

which meet the basic eligibility requirements in this chapter can receive funding under this section.

**§1456c. Technical assistance**

(a) The Secretary shall conduct a program of technical assistance and management-oriented research necessary to support the development and implementation of State coastal management program amendments under section 1456b of this title, and appropriate to the furtherance of international cooperative efforts and technical assistance in coastal zone management. Each department, agency, and instrumentality of the executive branch of the Federal Government may assist the Secretary, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and the performance of any research, study, and technical assistance which does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts or other arrangements with any qualified person for the purposes of carrying out this subsection.

(b)(1) The Secretary shall provide for the coordination of technical assistance, studies, and research activities under this section with any other such activities that are conducted by or subject to the authority of the Secretary.

(2) The Secretary shall make the results of research and studies conducted pursuant to this section available to coastal states in the form of technical assistance publications, workshops, or other means appropriate.

(3) The Secretary shall consult with coastal states on a regular basis regarding the development and implementation of the program established by this section.

(Pub. L. 89–454, title III, §310, as added Pub. L. 101–508, title VI, §6211, Nov. 5, 1990, 104 Stat. 1388–311.)

**Prior Provisions**

A prior section 1456c, Pub. L. 89–454, title III, §310, as added Pub. L. 94–370, §9, July 26, 1976, 90 Stat. 1029, related to research and technical assistance for coastal zone management, prior to repeal by Pub. L. 99–272, title VI, §6045(1), Apr. 7, 1986, 100 Stat. 127.

**§1456d. Coastal and Estuarine Land Conservation Program**

The Secretary shall establish a Coastal and Estuarine Land Conservation Program, for the purpose of protecting important coastal and estuarine areas that have significant

conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses: Provided further, That by September 30, 2002, the Secretary shall issue guidelines for this program delineating the criteria for grant awards: Provided further, That the Secretary shall distribute these funds in consultation with the States' Coastal Zone Managers' or Governors' designated representatives based on demonstrated need and ability to successfully leverage funds, and shall give priority to lands which can be effectively managed and protected and which have significant ecological value: Provided further, That grants funded under this program shall require a 100 percent match from other sources.

(Pub. L. 107–77, title II, Nov. 28, 2001, 115 Stat. 776.)

### **Codification**

Section was enacted as part of the Department of Commerce and Related Agencies Appropriations Act, 2002, and also as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, and not as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

### **Similar Provisions**

Pub. L. 108–7, div. B, title II, Feb. 20, 2003, 117 Stat. 75, provided in part: “That the Secretary shall establish a Coastal and Estuarine Land Conservation Program, for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses”.

### **§1457. Public hearings**

All public hearings required under this chapter must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

(Pub. L. 89–454, title III, §311, formerly §308, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1287; renumbered §311, Pub. L. 94–370, §7, July 26, 1976, 90 Stat. 1019.)

### **§1458. Review of performance**

#### **(a) Evaluation of adherence with terms of grants**

The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 1452(2)(A) through (K) of this title, and adhered to the terms of any grant, loan, or cooperative agreement funded under this chapter.

**(b) Public participation; notice of meetings; reports**

In evaluating a coastal state's performance, the Secretary shall conduct the evaluation in an open and public manner, and provide full opportunity for public participation, including holding public meetings in the State being evaluated and providing opportunities for the submission of written and oral comments by the public. The Secretary shall provide the public with at least 45 days' notice of such public meetings by placing a notice in the Federal Register, by publication of timely notices in newspapers of general circulation within the State being evaluated, and by communications with persons and organizations known to be interested in the evaluation. Each evaluation shall be prepared in report form and shall include written responses to the written comments received during the evaluation process. The final report of the evaluation shall be completed within 120 days after the last public meeting held in the State being evaluated. Copies of the evaluation shall be immediately provided to all persons and organizations participating in the evaluation process.

**(c) Suspension of financial assistance for noncompliance; notification of Governor; length of suspension**

(1) The Secretary may suspend payment of any portion of financial assistance extended to any coastal state under this chapter, and may withdraw any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to (A) the management program or a State plan developed to manage a national estuarine reserve established under section 1461 of this title, or a portion of the program or plan approved by the Secretary, or (B) the terms of any grant or cooperative agreement funded under this chapter.

(2) Financial assistance may not be suspended under paragraph (1) unless the Secretary provides the Governor of the coastal state with—

(A) written specifications and a schedule for the actions that should be taken by the State in order that such suspension of financial assistance may be withdrawn; and

(B) written specifications stating how those funds from the suspended financial assistance shall be expended by the coastal state to take the actions referred to in subparagraph (A).

(3) The suspension of financial assistance may not last for less than 6 months or more than 36 months after the date of suspension.

**(d) Withdrawal of approval of program**

The Secretary shall withdraw approval of the management program of any coastal state and shall withdraw financial assistance available to that State under this chapter as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state has failed to take the actions referred to in subsection (c)(2)(A) of this section.

**(e) Notice and hearing**

Management program approval and financial assistance may not be withdrawn under subsection (d) of this section, unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d) of this section, the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary.

(Pub. L. 89–454, title III, §312, formerly §309, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1287, renumbered §312 and amended Pub. L. 94–370, §§7, 10, July 26, 1976, 90 Stat. 1019, 1029; Pub. L. 96–464, §9(a), Oct. 17, 1980, 94 Stat. 2065; Pub. L. 99–272, title VI, §6043(a), Apr. 7, 1986, 100 Stat. 124; Pub. L. 101–508, title VI, §§6212, 6216(b), Nov. 5, 1990, 104 Stat. 1388–311, 1388–314; Pub. L. 102–587, title II, §2205(b)(1)(A), (C), Nov. 4, 1992, 106 Stat. 5050.)

**Amendments**

**1992**—Subsecs. (b), (c)(1). Pub. L. 102–587 substituted “coastal state's” for “coastal State's” in subsec. (b) and “coastal state” for “coastal State” after “any” in subsec. (c)(1).

**1990**—Subsec. (a). Pub. L. 101–508, §6216(b), substituted “through (K)” for “through (I)”.

Subsec. (b). Pub. L. 101–508, §6212(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “For the purpose of making the evaluation of a coastal state's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.”

Subsec. (c). Pub. L. 101–508, §6212(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: The Secretary shall reduce any financial

assistance extended to any coastal state under section 1455 of this title (but not below 70 per centum of the amount that would otherwise be available to the coastal state under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal state—

(1) is failing to make significant improvement in achieving the coastal management objectives specified in section 1452(2)(A) through (I) of this title; or

(2) is failing to make satisfactory progress in providing in its management program for the matters referred to in section 1455(i)(A) and (B) of this title.”

Subsec. (d). Pub. L. 101–508, §6212(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “The Secretary shall withdraw approval of the management program of any coastal state, and shall withdraw any financial assistance available to that state under this chapter as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to, is not justified in deviating from (1) the management program approved by the Secretary, or (2) the terms of any grant or cooperative agreement funded under section 1455 of this title, and refuses to remedy the deviation.

Subsec. (f). Pub. L. 101–508, §6212(d), struck out subsec. (f) which read as follows: “The Secretary shall carry out research on, and offer technical assistance of the coastal states with respect to, those activities, projects, and other relevant matters evaluated under this section that the Secretary considers to offer promise toward improving coastal zone management.”

**1986**—Subsec. (c). Pub. L. 99–272 designated existing provisions relating to failure to achieve objectives specified in section 1452(2)(A) through (I) as par. (1), and added par. (2).

**1980**—Subsec. (a). Pub. L. 96–464 substituted provisions relating to continuing review of coastal states performance with respect to coastal management for provisions relating to continuing review of management programs of coastal states, the performance of such states with respect to coastal zone management, and coastal energy impact program.

Subsec. (b). Pub. L. 96–464 substituted provisions relating to public meeting and comments for provisions relating to termination of financial assistance.

Subsecs. (c) to (f). Pub. L. 96–464 added subsecs. (c) to (f).

**1976**—Subsec. (a). Pub. L. 94–370, §10, designated existing provisions as par. (1), substituted “such states with respect to coastal zone management; and” for “each state.”, and added par. (2).

## **Regulations**

Section 9(b) of Pub. L. 96-464 provided that: “Within two hundred and seventy days after the date of the enactment of this Act [Oct. 17, 1980], the Secretary of Commerce shall issue such regulations as may be necessary or appropriate to administer section 312 of the Coastal Zone Management Act of 1972 (as amended by subsection (a) of this section) [this section].”

### **§1459. Records and audit**

#### **(a) Maintenance of records by recipients of grants or financial assistance**

Each recipient of a grant under this chapter or of financial assistance under section 1456a of this title, as in effect before November 5, 1990, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant and of the proceeds of such assistance, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

#### **(b) Access by Secretary and Comptroller General to records, books, etc., of recipients of grants or financial assistance for audit and examination**

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall—

(1) after any grant is made under this chapter or any financial assistance is provided under section 1456a of this title, as in effect before November 5, 1990; and

(2) until the expiration of 3 years after—

(A) completion of the project, program, or other undertaking for which such grant was made or used, or

(B) repayment of the loan or guaranteed indebtedness for which such financial assistance was provided,

have access for purposes of audit and examination to any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the grant funds or any person who entered into any transaction relating to such financial assistance and which is pertinent for purposes of determining if the grant funds or the proceeds of such financial assistance are being, or were, used in accordance with the provisions of this chapter.

(Pub. L. 89–454, title III, §313, formerly §310, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1287; renumbered §313 and amended Pub. L. 94–370, §§7, 11, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 102–587, title II, §2205(b)(19), Nov. 4, 1992, 106 Stat. 5052.)

### **Amendments**

**1992**—Subsec. (a). Pub. L. 102–587, §2205(b)(19)(A), substituted “section 1456a of this title, as in effect before November 5, 1990,” for “section 1456a of this title”.

Subsec. (b)(1). Pub. L. 102–587, §2205(b)(19)(B), substituted “section 1456a of this title, as in effect before November 5, 1990; and” for “section 1456a(d) of this title; and”.

**1976**—Subsec. (a). Pub. L. 94–370, §11(2), inserted “or of financial assistance under section 1456a of this title” after “grant under this chapter” and “and of the proceeds of such assistance” after “received under the grant”.

Subsec. (b). Pub. L. 94–370, §11(3), inserted provisions limiting duration of authority to 3 years after completion of project or repayment of loan and enlarged scope of access to include persons who entered into transactions relating to the grant of funds.

### **§1460. Walter B. Jones excellence in coastal zone management awards**

#### **(a) Establishment**

The Secretary shall, using sums in the Coastal Zone Management Fund established under section 1456a of this title and other amounts available to carry out this chapter (other than amounts appropriated to carry out sections 1454, 1455, 1455a, 1456b, 1456c, and 1461 of this title), implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the field.

#### **(b) Annual selection of recipients**

The Secretary shall elect annually—

- (1) one individual, other than an employee or officer of the Federal Government, whose contribution to the field of coastal zone management has been the most significant;
- (2) 5 local governments which have made the most progress in developing and implementing the coastal zone management principles embodied in this chapter; and
- (3) up to 10 graduate students whose academic study promises to contribute materially to development of new or improved approaches to coastal zone management.



**(c) Solicitation of nominations for local government recipients**

In making selections under subsection (b)(2) of this section the Secretary shall solicit nominations from the coastal states, and shall consult with experts in local government planning and land use.

**(d) Solicitation of nominations for graduate student recipients**

In making selections under subsection (b)(3) of this section the Secretary shall solicit nominations from coastal states and the National Sea Grant College Program.

**(e) Funding; types of awards**

Using sums in the Coastal Zone Management Fund established under section 1456a of this title and other amounts available to carry out this chapter (other than amounts appropriated to carry out sections 1454, 1455, 1455a, 1456b, 1456c, and 1461 of this title), the Secretary shall establish and execute appropriate awards, to be known as the “Walter B. Jones Awards”, including—

- (1) cash awards in an amount not to exceed \$5,000 each;
- (2) research grants; and
- (3) public ceremonies to acknowledge such awards.

(Pub. L. 89–454, title III, §314, formerly §313, as added Pub. L. 101–508, title VI, §6213, Nov. 5, 1990, 104 Stat. 1388–312; renumbered §314 and amended Pub. L. 102–587, title II, §2205(b)(20), Nov. 4, 1992, 106 Stat. 5052.)

**Prior Provisions**

A prior section 1460, Pub. L. 89–454, title III, §314, formerly §311, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1287; renumbered §314, Pub. L. 94–370, §7, July 26, 1976, 90 Stat. 1019, related to establishment, etc., of Coastal Zone Management Advisory Committee, prior to repeal by Pub. L. 99–272, title VI, §6045(2), Apr. 7, 1986, 100 Stat. 127.

**Amendments**

**1992**—Subsecs. (a), (e). Pub. L. 102–587, §2205(b)(20)(B), (C), after “under section 1456a of this title” inserted “and other amounts available to carry out this chapter (other than amounts appropriated to carry out sections 1454, 1455, 1455a, 1456b, 1456c, and 1461 of this title)”.

**§1461. National Estuarine Research Reserve System****(a) Establishment of System**

There is established the National Estuarine Research Reserve System (hereinafter referred to in this section as the “System”) that consists of—

- (1) each estuarine sanctuary designated under this section as in effect before April 7, 1986; and
- (2) each estuarine area designated as a national estuarine reserve under subsection (b) of this section.

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

**(b) Designation of national estuarine reserves**

After April 7, 1986, the Secretary may designate an estuarine area as a national estuarine reserve if—

- (1) the Governor of the coastal state in which the area is located nominates the area for that designation; and
- (2) the Secretary finds that—
  - (A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;
  - (B) the law of the coastal state provides long-term protection for reserve resources to ensure a stable environment for research;
  - (C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and
  - (D) the coastal state in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

**(c) Estuarine research guidelines**

The Secretary shall develop guidelines for the conduct of research within the System that shall include—

- (1) a mechanism for identifying, and establishing priorities among, the coastal management issues that should be addressed through coordinated research within the System;
- (2) the establishment of common research principles and objectives to guide the development of research programs within the System;
- (3) the identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes;
- (4) the establishment of performance standards upon which the effectiveness of the research efforts and the value of reserves within the System in addressing the coastal management issues identified in paragraph (1) may be measured; and
- (5) the consideration of additional sources of funds for estuarine research than the funds authorized under this chapter, and strategies for encouraging the use of such funds within the System, with particular emphasis on mechanisms established under subsection (d) of this section.

In developing the guidelines under this section, the Secretary shall consult with prominent members of the estuarine research community.

**(d) Promotion and coordination of estuarine research**

The Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes including—

- (1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting estuarine research, give priority consideration to research that uses the System; and
- (2) consulting with other Federal and State agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research.

**(e) Financial assistance**

(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

(A) to a coastal state—

(i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,

(ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or

(iii) for purposes of conducting educational or interpretive activities; and

(B) to any coastal state or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c) of this section.

(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal states to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

(3)(A) The amount of the financial assistance provided under paragraph (1)(A)(i) with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein or \$5,000,000, whichever amount is less.

(B) The amount of the financial assistance provided under paragraph (1)(A)(ii) and (iii) and paragraph (1)(B) may not exceed 70 percent of the costs incurred to achieve the purposes described in those paragraphs with respect to a reserve; except that the amount of the financial assistance provided under paragraph (1)(A)(iii) may be up to 100 percent of any costs for activities that benefit the entire System.

(C) Notwithstanding subparagraphs (A) and (B), financial assistance under this subsection provided from amounts recovered as a result of damage to natural resources located in the coastal zone may be used to pay 100 percent of the costs of activities carried out with the assistance.

**(f) Evaluation of System performance**

(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including education and interpretive activities, and the research being conducted within the reserve.

(2) If evaluation under paragraph (1) reveals that the operation and management of the reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c) of this section,

the Secretary may suspend the eligibility of that reserve for financial assistance under subsection (e) of this section until the deficiency or inconsistency is remedied.

(3) The Secretary may withdraw the designation of an estuarine area as a national estuarine reserve if evaluation under paragraph (1) reveals that—

(A) the basis for any one or more of the findings made under subsection (b)(2) of this section regarding that area no longer exists; or

(B) a substantial portion of the research conducted within the area, over a period of years, has not been consistent with the research guidelines developed under subsection (c) of this section.

### **(g) Report**

The Secretary shall include in the report required under section 1462 of this title information regarding—

(1) new designations of national estuarine reserves;

(2) any expansion of existing national estuarine reserves;

(3) the status of the research program being conducted within the System; and

(4) a summary of the evaluations made under subsection (f) of this section.

(Pub. L. 89–454, title III, §315, formerly §312, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1288; renumbered §315 and amended Pub. L. 94–370, §§7, 12, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 96–464, §11, Oct. 17, 1980, 94 Stat. 2067; Pub. L. 99–272, title VI, §6044, Apr. 7, 1986, 100 Stat. 125; Pub. L. 101–508, title VI, §6214, Nov. 5, 1990, 104 Stat. 1388–313; Pub. L. 102–587, title II, §2205(b)(1)(A), (B), (21), (22), Nov. 4, 1992, 106 Stat. 5050, 5052; Pub. L. 104–150, §6, June 3, 1996, 110 Stat. 1381.)

### **Amendments**

**1996**—Subsec. (e)(3)(C). Pub. L. 104–150 added subpar. (C).

**1992**—Subsec. (a). Pub. L. 102–587, §2205(b)(21), substituted “Research Reserve” for “Reserve Research”.

Subsec. (b). Pub. L. 102–587, §2205(b)(1)(A), substituted “coastal state” for “coastal State” in pars. (1) and (2)(B) and (D).

Subsec. (c)(4). Pub. L. 102–587, §2205(b)(22), substituted “paragraph (1)” for “subsection (1)”.

Subsec. (e). Pub. L. 102–587, §2205(b)(1)(A), (B), substituted “coastal state” for “coastal State” in par. (1)(A) and (B) and “coastal states” for “coastal States” in par. (2).

**1990**—Pub. L. 101–508, §6214(a), substituted “Research Reserve” for “Reserve Research” in section catchline.

Subsec. (e)(3)(A). Pub. L. 101–508, §6214(b), (d), substituted “percent” for “per centum” and “\$5,000,000” for “\$4,000,000”, and struck out “of subsection (e) of this section” after “paragraph (1)(A)(i)”.

Subsec. (e)(3)(B). Pub. L. 101–508, §6214(c), (d), substituted “70 percent” for “50 per centum”, struck out “of subsection (e) of this section” after “paragraph (1)(B)” and inserted before period at end “; except that the amount of the financial assistance provided under paragraph (1)(A)(iii) may be up to 100 percent of any costs for activities that benefit the entire System”.

**1986**—Pub. L. 99–272 amended section generally. Prior to amendment, section read as follows: The Secretary may, in accordance with this section and in accordance with such rules and regulations as the Secretary shall promulgate, make grants to any coastal state for the purpose of—

(1) acquiring, developing, or operating estuarine sanctuaries, to serve as natural field laboratories in which to study and gather data on the natural and human processes occurring within the estuaries of the coastal zone; and

(2) acquiring lands to provide for the preservation of islands, or portions thereof.

The amount of any such grant shall not exceed 50 per centum of the cost of the project involved; except that, in the case of acquisition of any estuarine sanctuary, the Federal share of the cost thereof shall not exceed \$3,000,000. No grant for acquisition of land may be made under this section without the approval of the Governor of the State in which is located the land proposed to be acquired.

**1980**—Pub. L. 96–464, in par. (2), substituted “the preservation of islands, or portions thereof” for “access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value, and for the preservation of islands”; and in provision following par. (2), raised the spending limitation of \$2,000,000 to \$3,000,000 and inserted provision that no grant for acquisition of land may be made under this section without the approval of the Governor of the state in which the land proposed to be acquired is located.

**1976**—Pub. L. 94-370, §12, restructured existing provisions into pars. (1) and (2), inserted purpose of acquiring lands to provide for access to beaches and other coastal areas and for the preservation of islands, and struck out proviso that no Federal funds received pursuant to sections 1454 or 1455 of this title be used for purposes of this section.

## **§1462. Coastal zone management reports**

### **(a) Biennial reports**

The Secretary shall consult with the Congress on a regular basis concerning the administration of this chapter and shall prepare and submit to the President for transmittal to the Congress a report summarizing the administration of this chapter during each period of two consecutive fiscal years. Each report, which shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to (1) an identification of the state programs approved pursuant to this chapter during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this chapter and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved, and a statement of the reasons for such actions; (5) a summary of evaluation findings prepared in accordance with subsection (a) of section 1458 of this title, and a description of any sanctions imposed under subsections (c) and (d) of section 1458 of this title; (6) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 1456 of this title, are not consistent with an applicable approved state management program; (7) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (8) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (9) a summary of outstanding problems arising in the administration of this chapter in order of priority; (10) a description of the economic, environmental, and social consequences of energy activity affecting the coastal zone and an evaluation of the effectiveness of financial assistance under section 1456a of this title in dealing with such consequences; (11) a description and evaluation of applicable interstate and regional planning and coordination mechanisms developed by the coastal states; (12) a summary and evaluation of the research, studies, and training conducted in support of coastal zone management; and (13) such other information as may be appropriate.

### **(b) Recommendations for legislation**

The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this chapter and enhance its effective operation.

**(c) Review of other Federal programs; report to Congress**

(1) The Secretary shall conduct a systematic review of Federal programs, other than this chapter, that affect coastal resources for purposes of identifying conflicts between the objectives and administration of such programs and the purposes and policies of this chapter. Not later than 1 year after October 17, 1980, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this chapter identified as a result of such review.

(2) The Secretary shall promptly submit a report to the Congress consisting of the information required under paragraph (1) of this subsection. Such report shall include recommendations for changes necessary to resolve existing conflicts among Federal laws and programs that affect the uses of coastal resources.

(Pub. L. 89-454, title III, §316, formerly §313, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1288; renumbered §316 and amended Pub. L. 94-370, §§7, 13, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 96-464, §10, Oct. 17, 1980, 94 Stat. 2066; Pub. L. 102-587, title II, §2205(b)(23), Nov. 4, 1992, 106 Stat. 5052.)

**Amendments**

**1992**—Subsec. (a)(5). Pub. L. 102-587 substituted “subsections (c) and (d) of section 1458 of this title” for “subsections (c) and (d) of this section”.

**1980**—Subsec. (a). Pub. L. 96-464, §10(2), in provision preceding opening sentence, substituted provisions that the Secretary consult with Congress concerning the administration of this chapter and prepare and submit a biennial report to the President for transmittal to Congress for provisions that the Secretary prepare and submit to the President for transmittal to Congress an annual report for the preceding year not later than November 1 of each year, in cl. (4), substituted “reviewed and disapproved and a” for “reviewed and disapproved or with respect to which grants have been terminated under this chapter, and a”, added cl. (5), and redesignated cls. (5) to (12) as (6) to (13) respectively.

Subsec. (c). Pub. L. 96-464, §10(3), added subsec. (c).

**1976**—Subsec. (a). Pub. L. 94-370, §13, added cls. (9) to (11) and redesignated former cl. (9) as (12).

**Termination of Reporting Requirements**



For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to transmittal to Congress of a biennial report summarizing the administration of this chapter, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 53 of House Document No. 103-7.

### **Shellfish Sanitation**

Section 16 of Pub. L. 94-370 provided that:

(a) The Secretary of Commerce shall—

(1) undertake a comprehensive review of all aspects of the molluscan shellfish industry, including, but not limited to, the harvesting, processing, and transportation of such shellfish; and

(2) evaluate the impact of Federal law concerning water quality on the molluscan shellfish industry.

The Secretary of Commerce shall, not later than April 30, 1977, submit a report to the Congress of the findings, comments, and recommendations (if any) which result from such review and evaluation.

(b) The Secretary of Health, Education, and Welfare [now Health and Human Services] shall not promulgate final regulations concerning the national shellfish safety program before June 30, 1977. At least 60 days prior to the promulgation of any such regulations, the Secretary of Health, Education, and Welfare, in consultation with the Secretary of Commerce, shall publish an analysis (1) of the economic impact of such regulations on the domestic shellfish industry, and (2) the cost of such national shellfish safety program relative to the benefits that it is expected to achieve.

### **Assignment of Reporting Function**

Memorandum of President of the United States, Aug. 5, 2005, 70 F.R. 46397, provided:

Memorandum for the Secretary of Commerce

By virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President under section 316 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451, et seq.).

You are authorized and directed to publish this memorandum in the Federal Register.

George W. Bush.

### **§1463. Rules and regulations**

The Secretary shall develop and promulgate, pursuant to section 553 of title 5, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this chapter.

(Pub. L. 89–454, title III, §317, formerly §314, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1288; renumbered §317, Pub. L. 94–370, §7, July 26, 1976, 90 Stat. 1019.)

### **§1463a. Omitted**

#### **Codification**

Section, Pub. L. 96–464, §12(a)–(g), Oct. 17, 1980, 94 Stat. 2067; Pub. L. 98–620, title IV, §402(20), Nov. 8, 1984, 98 Stat. 3358, which required the Secretary of Commerce to submit to Congress any final rule promulgated pursuant to this chapter and provided procedures for Congressional disapproval of such rules was omitted pursuant to section 12(h) of Pub. L. 96–464, which provided that this section would cease to have any force or effect after Sept. 30, 1985.

### **§1463b. National Coastal Resources Research and Development Institute**

#### **(a) Establishment by Secretary; administration**

The Secretary of Commerce shall provide for the establishment of a National Coastal Resources Research and Development Institute (hereinafter in this section referred to as the “Institute”) to be administered by the Oregon State Marine Science Center.

#### **(b) Purposes of Institute**

The Institute shall conduct research and carry out educational and demonstration projects designed to promote the efficient and responsible development of ocean and coastal resources, including arctic resources. Such projects shall be based on biological, geological, genetic, economic and other scientific research applicable to the purposes of this section and shall include studies on the economic diversification and environmental protection of the Nation's coastal areas.

#### **(c) Determination of Institute policies**

(1) The policies of the Institute shall be determined by a Board of Governors composed of—

(A) two representatives appointed by the Governor of Oregon;

(B) one representative appointed by the Governor of Alaska;

(C) one representative appointed by the Governor of Washington;

(D) one representative appointed by the Governor of California; and

(E) one representative appointed by the Governor of Hawaii.

(2) Such policies shall include the selection, on a nationally competitive basis, of the research, projects, and studies to be supported by the Institute in accordance with the purposes of this section.

**(d) Establishment of Advisory Council; functions and composition**

(1) The Board of Governors shall establish an Advisory Council composed of specialists in ocean and coastal resources from the academic community.

(2) To the maximum extent practicable, the Advisory Council shall be composed of such specialists from every coastal region of the Nation.

(3) The Advisory Council shall provide such advice to the Board of Governors as such Board shall request, including recommendations regarding the support of research, projects, and studies in accordance with the purposes of this section.

**(e) Administration of Institute**

The Institute shall be administered by a Director who shall be appointed by the Chancellor of the Oregon Board of Higher Education in consultation with the Board of Governors.

**(f) Evaluation of Institute by Secretary**

The Secretary of Commerce shall conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute under this section are used in a manner consistent with the provisions of this section.

**(g) Report to Secretary**

The Institute shall report to the Secretary of Commerce on its activities within 2 years after July 17, 1984.

**(h) Access to Institute books, records, and documents**

The Comptroller General of the United States, and any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the Institute that are pertinent to the funds received under this section.

**(i) Status of Institute employees**

Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

**(j) Authorization of appropriations**

For the purposes of this section, there are authorized to be appropriated in each fiscal year \$5,000,000, commencing with fiscal year 1985.

(Pub. L. 98–364, title II, §201, July 17, 1984, 98 Stat. 443.)

**References in Text**

This section, referred to in subsecs. (a) to (d), (f), (h) and (j), was in the original “this title”, meaning title II of Pub. L. 98–364, which enacted this section.

**Codification**

Section was not enacted as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

**Termination of Advisory Councils**

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

**§1464. Authorization of appropriations**

**(a) Sums appropriated to Secretary**

There are authorized to be appropriated to the Secretary, to remain available until expended—

(1) for grants under sections 1455, 1455a, and 1456b of this title—

(A) \$47,600,000 for fiscal year 1997;

(B) \$49,000,000 for fiscal year 1998; and

(C) \$50,500,000 for fiscal year 1999; and

(2) for grants under section 1461 of this title—

(A) \$4,400,000 for fiscal year 1997;

(B) \$4,500,000 for fiscal year 1998; and

(C) \$4,600,000 for fiscal year 1999.

**(b) Limitations**

Federal funds received from other sources shall not be used to pay a coastal state's share of costs under section 1455 or 1456b of this title.

**(c) Reversion to Secretary of unobligated State funds; availability of funds**

The amount of any grant, or portion of a grant, made to a State under any section of this chapter which is not obligated by such State during the fiscal year, or during the second fiscal year after the fiscal year, for which it was first authorized to be obligated by such State shall revert to the Secretary. The Secretary shall add such reverted amount to those funds available for grants under the section for such reverted amount was originally made available.

(Pub. L. 89–454, title III, §318, formerly §315, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1289; amended Pub. L. 93–612, §1(3), Jan. 2, 1975, 88 Stat. 1974; renumbered §318 and amended Pub. L. 94–370, §§7, 14, July 26, 1976, 90 Stat. 1019, 1031; Pub. L. 95–372, title V, §§502, 503(e), (f), Sept. 18, 1978, 92 Stat. 692, 693; Pub. L. 96–464, §13, Oct. 17, 1980, 94 Stat. 2070; Pub. L. 99–272, title VI, §6046, Apr. 7, 1986, 100 Stat. 127; Pub. L. 99–626, §7, Nov. 7, 1986, 100 Stat. 3506; Pub. L. 101–508, title VI, §6215, Nov. 5, 1990, 104 Stat. 1388–313; Pub. L. 104–150, §4, June 3, 1996, 110 Stat. 1381.)

## References in Text

This chapter, referred to in subsec. (c), was in the original “this Act” which was translated as reading “this title”, meaning title III of Pub. L. 89–454 which is classified generally to this chapter, to reflect the probable intent of Congress.

## Amendments

**1996**—Subsec. (a). Pub. L. 104–150, §4(1), amended subsec. (a) generally, substituting provisions of pars. (1) and (2) setting forth appropriations for grants under sections 1455, 1455a, 1456b, and 1461 for fiscal years 1997, 1998, and 1999 for provisions of pars. (1) to (4) setting forth appropriations for grants under sections 1454, 1455, 1455a, 1456b, and 1461 and activities under section 1456c for fiscal years during the period beginning Oct. 1, 1990, and ending Sept. 30, 1995.

Subsecs. (b) to (d). Pub. L. 104–150, §4(2), (3), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: “There are authorized to be appropriated until October 1, 1986, to the Fund, such sums, not to exceed \$800,000,000, for the purposes of carrying out the provisions of section 1456a of this title, other than subsection (b), of which not to exceed \$150,000,000 shall be for purposes of subsections (c)(1), (c)(2) and (c)(3) of such section.”

**1990**—Subsec. (a)(1) to (4). Pub. L. 101–508 substituted pars. (1) to (4) for former pars. (1) to (5) which read as follows:

(1) such sums, not to exceed \$35,000,000 for the fiscal year ending September 30, 1986, not to exceed \$36,600,000 for the fiscal year ending September 30, 1987, \$37,900,000 for the fiscal year ending September 30, 1988, \$38,800,000 for the fiscal year ending September 30, 1989, and \$40,600,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under sections 1455 and 1455a of this title, to remain available until expended;

(2) such sums, not to exceed \$75,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 1456a(b) of this title;

(3) such sums, not to exceed \$1,000,000 for the fiscal year ending September 30, 1986, and not to exceed \$1,500,000 for each of the fiscal years occurring during the period beginning October 1, 1986, and ending September 30, 1990, as may be necessary for grants under section 1456b of this title, to remain available until expended;

(4) such sums, not to exceed \$2,500,000 for the fiscal year ending September 30, 1986, not to exceed \$3,800,000 for the fiscal year ending September 30, 1987, \$4,500,000 for the fiscal year ending September 30, 1988, \$5,000,000 for the fiscal year ending

September 30, 1989, and \$5,500,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under section 1461 of this title, to remain available until expended; and

(5) such sums, not to exceed \$3,300,000 for the fiscal year ending September 30, 1986, not to exceed \$3,300,000 for the fiscal year ending September 30, 1987, \$3,300,000 for the fiscal year ending September 30, 1988, \$4,000,000 for the fiscal year ending September 30, 1989, and \$4,000,000 for the fiscal year ending September 30, 1990, as may be necessary for administrative expenses incident to the administration of this chapter.

**1986**—Subsec. (a)(1). Pub. L. 99–272, §6046(1), substituted authorization of appropriations for each of fiscal years 1986 through 1990 necessary for grants under sections 1455 and 1455a of this title, for authorization of appropriations of \$48,000,000 for each of fiscal years 1981 through 1985 necessary for grants under section 1455 of this title.

Subsec. (a)(2). Pub. L. 99–272, §6046(2), redesignated par. (3) as (2), and struck out former par. (2) which authorized appropriations of \$20,000,000 for each of fiscal years 1981 through 1985 necessary for grants under section 1455a of this title.

Subsec. (a)(3). Pub. L. 99–272, §6046(2), (3), redesignated par. (4) as (3) and substituted authorization of appropriations for each of fiscal years 1986 through 1990 necessary for grants under section 1456b of this title, for authorization of appropriations of \$3,000,000 for each of fiscal years 1981 through 1985 necessary for grants under section 1456b of this title. Former par. (3) redesignated (2).

Subsec. (a)(4). Pub. L. 99–272, §6046(2), (3), redesignated par. (5) as (4) and substituted authorization of appropriations for each of fiscal years 1986 through 1990 necessary for grants under section 1461 of this title, for authorization of appropriations of \$9,000,000 for each of fiscal years 1981 through 1985 necessary for grants under section 1461 of this title. Former par. (4) redesignated (3).

Subsec. (a)(5), (6). Pub. L. 99–272, §6046(2), (3), redesignated par. (6) as (5) and substituted authorization of appropriations for each of fiscal years 1986 through 1990 necessary for administrative expenses incident to administration of this chapter, for authorization of appropriations of \$6,000,000 for each of fiscal years 1981 through 1985 necessary for such administrative expenses. Former par. (5) redesignated (4).

Subsec. (d). Pub. L. 99–626 added subsec. (d).

**1980**—Subsec. (a)(1). Pub. L. 96–464, §13(1), redesignated par. (2) as (1) and substituted authorization of appropriation of \$48,000,000 for each of the fiscal years 1981 through 1985, for authorization of appropriation of \$50,000,000 for fiscal years

1977 through 1980. Former par. (1), which authorized appropriation of \$20,000,000 for fiscal years 1977 through 1979 for grants under section 1454 of this title, was struck out.

Subsec. (a)(2). Pub. L. 96-464, §13(1), added par. (2). Former par. (2) redesignated (1).

Subsec. (a)(3). Pub. L. 96-464, §13(1), substituted authorization of appropriation of \$75,000,000 for each of the fiscal years 1981 through 1988, for authorization of appropriation of \$50,000,000 for each of the fiscal year years 1977 and 1978, and \$130,000,000 for each of the fiscal years 1979 through 1988.

Subsec. (a)(4). Pub. L. 96-464, §13(1), redesignated par. (5) as (4) and substituted authorization of appropriation of \$3,000,000 for each of the fiscal years 1981 through 1985, for authorization of appropriation of \$5,000,000 for each of the fiscal years 1977 through 1980. Former par. (4), which authorized appropriation of \$5,000,000 for each of the fiscal years 1979 through 1983 for grants under section 1456a(c)(2) of this title, was struck out.

Subsec. (a)(5). Pub. L. 96-464, §13(1), combined in par. (5), authorization of appropriation of \$31,000,000 for grants under section 1461 of this title for fiscal years 1977 through 1980 formerly contained in pars. (7) and (8), and authorized appropriation of \$9,000,000 for grants under section 1461 of this title for fiscal years 1981 through 1985. Former par. (5) redesignated (4).

Subsec. (a)(6). Pub. L. 96-464, §13(1), redesignated par. (9) as (6) and substituted authorization of appropriation of \$6,000,000 for fiscal years 1981 through 1985, for authorization of appropriation of \$5,000,000 for fiscal years 1977 through 1980. Former par. (6), which contained authorization of appropriation of \$10,000,000 for fiscal years 1977 through 1980 for financial assistance under section 1456c of this title with equal division between subsecs. (a) and (b), was struck out.

Subsec. (a)(7) to (9). Pub. L. 96-464, §13(1), combined provisions of pars. (7) and (8) into par. (5) and redesignated par. (9) as (6).

Subsec. (b). Pub. L. 96-464, §13(2), substituted “subsection (b) of this section, of which not to exceed \$150,000,000 shall be for purposes of subsections (c)(1), (c)(2) and (c)(3) of such section” for “subsections (b) and (c)(2), of which not to exceed \$50,000,000 shall be for purposes of subsections (c)(1) and (d)(4) of such section”.

Subsec. (c). Pub. L. 96-464, §13(3), substituted “section 1455 or 1456b of this title” for “section 1454, 1455, 1456b or 1456c of this title”.

**1978**—Subsec. (a)(3). Pub. L. 95-372, §502, substituted “for each of the fiscal years ending September 30, 1977, and September 30, 1978, and not to exceed \$130,000,000 per fiscal year for each of the fiscal years occurring during the period beginning on



October 1, 1978, and ending September 30, 1988,” for “for each of the 8 fiscal years occurring during the period beginning October 1, 1976, and ending September 30, 1984,”.

Subsec. (a)(4) to (9). Pub. L. 95–372, §503(e), added par. (4) and redesignated former pars. (4) to (8) as (5) to (9), respectively.

Subsec. (b). Pub. L. 95–372, §503(f), substituted “subsections (b) and (c)(2)” for “subsection (b)” and “subsections (c)(1)” for “subsections (c)”.

**1976**—Subsec. (a)(1). Pub. L. 94–370, §14, substituted provisions authorizing appropriations of sums not to exceed \$20,000,000 for each of the fiscal years ending Sept. 30, 1977, Sept. 30, 1978, and Sept. 30, 1979 for provisions authorizing appropriations of the sum of \$9,000,000 for the fiscal year ending June 30, 1973, and for each of the fiscal years 1974 through 1977.

Subsec. (a)(2). Pub. L. 94–370, §14, substituted provisions authorizing appropriations of sums not to exceed \$50,000,000 for each of the fiscal years ending Sept. 30, 1977, Sept. 30, 1978, Sept. 30, 1979, and Sept. 30, 1980 for provisions authorizing appropriations of sums not to exceed \$30,000,000 for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977.

Subsec. (a)(3). Pub. L. 94–370, §14, substituted provisions authorizing appropriations of sums not to exceed \$50,000,000 for each of the 8 fiscal years occurring during the period beginning Oct. 1, 1976, and ending Sept. 30, 1984, as may be necessary for grants under section 1456a(b) of this title for provisions authorizing appropriations of sums not to exceed \$6,000,000 for the fiscal year ending June 30, 1974, as may be necessary for grants under section 1461 of this title, to remain available until expended.

Subsec. (a)(4) to (8). Pub. L. 94–370, §14, added pars. (4) to (8).

Subsec. (b). Pub. L. 94–370, §14, substituted provisions authorizing appropriations until Oct. 1, 1986 to the Fund of sums not to exceed \$800,000,000 for the purpose of carrying out provisions of section 1456a of this title, other than subsec. (b) of such section, of which sums not to exceed \$50,000,000 shall be for purposes of subsecs. (c) and (d)(4) of such section for provisions authorizing appropriations of sums not to exceed \$3,000,000, for fiscal year 1973 and for each of the four succeeding fiscal years, as may be necessary for administrative expenses for administration of this chapter.

Subsec. (c). Pub. L. 94–370, §14, added subsec. (c).

**1975**—Subsec. (a)(1). Pub. L. 93–612, §1(3)(A), increased from \$9,000,000 to \$12,000,000 the sums authorized to be appropriated for the 3 fiscal years following the fiscal year 1974.

Subsec. (a)(3). Pub. L. 93–612, §1(3)(B), inserted “and for each of the three succeeding fiscal years,” after “fiscal year ending June 30, 1974.”.

### **§1465. Appeals to the Secretary**

#### **(a) Notice**

Not later than 30 days after the date of the filing of an appeal to the Secretary of a consistency determination under section 1456 of this title, the Secretary shall publish an initial notice in the Federal Register.

#### **(b) Closure of record**

##### **(1) In general**

Not later than the end of the 160-day period beginning on the date of publication of an initial notice under subsection (a) of this section, except as provided in paragraph (3), the Secretary shall immediately close the decision record and receive no more filings on the appeal.

##### **(2) Notice**

After closing the administrative record, the Secretary shall immediately publish a notice in the Federal Register that the administrative record has been closed.

##### **(3) Exception**

###### **(A) In general**

Subject to subparagraph (B), during the 160-day period described in paragraph (1), the Secretary may stay the closing of the decision record—

(i) for a specific period mutually agreed to in writing by the appellant and the State agency; or

(ii) as the Secretary determines necessary to receive, on an expedited basis—

(I) any supplemental information specifically requested by the Secretary to complete a consistency review under this chapter; or

(II) any clarifying information submitted by a party to the proceeding related to information in the consolidated record compiled by the lead Federal permitting agency.

###### **(B) Applicability**

The Secretary may only stay the 160-day period described in paragraph (1) for a period not to exceed 60 days.

**(c) Deadline for decision**

**(1) In general**

Not later than 60 days after the date of publication of a Federal Register notice stating when the decision record for an appeal has been closed, the Secretary shall issue a decision or publish a notice in the Federal Register explaining why a decision cannot be issued at that time.

**(2) Subsequent decision**

Not later than 15 days after the date of publication of a Federal Register notice explaining why a decision cannot be issued within the 60-day period, the Secretary shall issue a decision.

(Pub. L. 89–454, title III, §319, as added Pub. L. 104–150, §8, June 3, 1996, 110 Stat. 1382; amended Pub. L. 109–58, title III, §381, Aug. 8, 2005, 119 Stat. 737.)

**References in Text**

This chapter, referred to in subsec. (b)(3)(A)(ii)(I), was in the original “this Act” which was translated as reading “this title”, meaning title III of Pub. L. 89–454 which is classified generally to this chapter, to reflect the probable intent of Congress.

**Amendments**

**2005**—Pub. L. 109–58 amended section catchline and text generally, substituting provisions relating to notice, closure of record, and deadline for decision for provisions relating to notice, deadline for decision, and application of section.

**§1466. Appeals relating to offshore mineral development**

For any Federal administrative agency proceeding that is an appeal or review under section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465) related to any Federal authorization for the permitting, approval, or other authorization of an energy project, the lead Federal permitting agency for the project shall, with the cooperation of Federal and State administrative agencies, maintain a consolidated record of all decisions made or actions taken by the lead agency or by another Federal or State administrative agency or officer. Such record shall be the initial record for appeals or reviews under that Act, provided that the record may be supplemented as expressly provided pursuant to section 319 of that Act.

(Pub. L. 109–58, title III, §382, Aug. 8, 2005, 119 Stat. 738.)

### **References in Text**

The Coastal Zone Management Act of 1972, referred to in text, is title III of Pub. L. 89–454, as added by Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to this chapter (§1451 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

### **Codification**

Section was enacted as part of the Energy Policy Act of 2005, and not as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

## **VII. NATIONAL MARITIME HERITAGE**

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(as of January 2011)

16 U.S.C. Ch. 74: NATIONAL MARITIME HERITAGE  
From Title 16—CONSERVATION

### **CHAPTER 74—NATIONAL MARITIME HERITAGE**

Sec. 5401. Findings.

5402. National maritime heritage policy.

5403. National Maritime Heritage Grants Program.

5404. National Maritime Heritage Grants Advisory Committee.

5405. Funding.

5406. Definitions.

5407. Regulations.

5408. Savings provision.

5409. Designation of America's National Maritime Museum.

#### **§5401. Findings**

The Congress finds and declares the following:

- (1) The United States is a nation with a rich maritime history, and it is desirable to foster in the American public a greater awareness and appreciation of the role of maritime endeavors in our Nation's history and culture.
- (2) The maritime historical and cultural foundations of the Nation should be preserved as a part of our community life and development.
- (3) National, State, and local groups have been working independently to preserve the maritime heritage of the United States.
- (4) Historic resources significant to the Nation's maritime heritage are being lost or substantially altered, often inadvertently, with increasing frequency.
- (5) The preservation of this irreplaceable maritime heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, and economic benefits will be maintained and enriched for future generations of Americans.
- (6) The current governmental and nongovernmental historic preservation programs and activities are inadequate to ensure future generations a genuine opportunity to appreciate and enjoy the rich maritime heritage of our Nation.

(7) A coordinated national program is needed immediately to redress the adverse consequences of a period of indifference during which the maritime heritage of the United States has become endangered and to ensure the future preservation of the Nation's maritime heritage.

(8) A national maritime heritage policy would greatly increase public awareness of, and participation in, the preservation of the Nation's maritime heritage.

(Pub. L. 103–451, §2, Nov. 2, 1994, 108 Stat. 4769.)

### **Short Title**

Section 1 of Pub. L. 103–451 provided that: “This Act [enacting this chapter] may be cited as the ‘National Maritime Heritage Act of 1994’.”

### **§5402. National maritime heritage policy**

It shall be the policy of the Federal Government, in partnership with the States and local governments and private organizations and individuals, to—

(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our historic maritime resources can exist in productive harmony;

(2) provide leadership in the preservation of the historic maritime resources of the United States;

(3) contribute to the preservation of historic maritime resources and give maximum encouragement to organizations and individuals undertaking preservation by private means; and

(4) assist State and local governments to expand their maritime historic preservation programs and activities.

(Pub. L. 103–451, §3, Nov. 2, 1994, 108 Stat. 4770.)

### **§5403. National Maritime Heritage Grants Program**

#### **(a) Establishment**

There is hereby established within the Department of the Interior the National Maritime Heritage Grants Program, to foster in the American public a greater awareness and appreciation of the role of maritime endeavors in our Nation's history and culture. The Program shall consist of—

(1) annual grants to the National Trust for Historic Preservation for subgrants administered by the National Trust for maritime heritage education projects under subsection (b) of this section;

(2) grants to State Historic Preservation Officers for maritime heritage preservation projects carried out or administered by those Officers under subsection (c) of this section; and

(3) grants for interim projects under subsection (j) of this section.

**(b) Grants for maritime heritage education projects**

**(1) Grants to National Trust for Historic Preservation**

The Secretary, subject to paragraphs (2), (3), and (4),<sup>1</sup> and the availability of amounts for that purpose under section 5405(b)(1)(A) of this title, shall make an annual grant to the National Trust for maritime heritage education projects.

**(2) Use of grants**

Amounts received by the National Trust as an annual grant under this subsection shall be used to make subgrants to State and local governments and private nonprofit organizations to carry out education projects which have been approved by the Secretary under subsection (f) of this section and which consist of—

(A) assistance to any maritime museum or historical society for—

(i) existing and new educational programs, exhibits, educational activities, conservation, and interpretation of artifacts and collections;

(ii) minor improvements to educational and museum facilities; and

(iii) other similar activities;

(B) activities designed to encourage the preservation of traditional maritime skills, including—

(i) building and operation of vessels of all sizes and types for educational purposes;

(ii) special skills such as wood carving, sail making, and rigging;

(iii) traditional maritime art forms; and

(iv) sail training;

(C) other educational activities relating to historic maritime resources, including—

(i) maritime educational waterborne-experience programs in historic vessels or vessel reproductions;

(ii) maritime archaeological field schools; and

(iii) educational programs on other aspects of maritime history;

(D) heritage programs focusing on maritime historic resources, including maritime heritage trails and corridors; or

(E) the construction and use of reproductions of historic maritime resources for educational purposes, if a historic maritime resource no longer exists or would be damaged or consumed through direct use.

**(c) Grants for maritime heritage preservation projects**

**(1) Grants to State Historic Preservation Officers**

The Secretary, acting through the National Maritime Initiative of the National Park Service and subject to paragraphs (2) and (3),<sup>2</sup> and the availability of amounts for that purpose under section 5405(b)(1)(B) of this title, shall make grants to State Historic Preservation Officers for maritime heritage preservation projects.

**(2) Use of grants**

Amounts received by a State Historic Preservation Officer as a grant under this subsection shall be used by the Officer to carry out<sup>3</sup> or to make subgrants to local governments and private nonprofit organizations to carry out, projects which have been approved by the Secretary under subsection (f) of this section for the preservation of historic maritime resources through—

(A) identification of historic maritime resources, including underwater archaeological sites;

(B) acquisition of historic maritime resources for the purposes of preservation;

(C) repair, restoration, stabilization, maintenance, or other capital improvements to historic maritime resources, in accordance with standards prescribed by the Secretary; and

(D) research, recording (through drawings, photographs, or otherwise), planning (through feasibility studies, architectural and engineering services, or otherwise), and



other services carried out as part of a preservation program for historic maritime resources.

**(d) Criteria for direct grant and subgrant eligibility**

To qualify for a subgrant from the National Trust under subsection (b) of this section, or a direct grant to or a subgrant from a State Historic Preservation Officer under subsection (c) of this section, a person must—

- (1) demonstrate that the project for which the direct grant or subgrant will be used has the potential for reaching a broad audience with an effective educational program based on American maritime history, technology, or the role of maritime endeavors in American culture;
- (2) match the amount of the direct grant or subgrant, on a 1-to-1 basis, with non-Federal assets from non-Federal sources, which may include cash or donated services fairly valued as determined by the Secretary;
- (3) maintain records as may be reasonably necessary to fully disclose—
  - (A) the amount and the disposition of the proceeds of the direct grant or subgrant;
  - (B) the total cost of the project for which the direct grant or subgrant is made; and
  - (C) other records as may be required by the Secretary, including such records as will facilitate an effective accounting for project funds;
- (4) provide access to the Secretary for the purposes of any required audit and examination of any books, documents, papers, and records of the person; and
- (5) be a unit of State or local government, or a private nonprofit organization.

**(e) Procedures, terms, and conditions**

**(1) Application procedures**

An application for a subgrant under subsection (b) of this section, or a direct grant or subgrant under subsection (c) of this section, shall be submitted under procedures prescribed by the Secretary.

**(2) Terms and conditions**

A person may not receive a subgrant under subsection (b) of this section, or a direct grant or subgrant under subsection (c) of this section, unless the person has agreed to

assume, after completion of the project for which the direct grant or subgrant is awarded, the total cost of the continued maintenance, repair, and administration of any property for which the subgrant will be used in a manner satisfactory to the Secretary.

**(f) Review of proposals**

**(1) Committee recommendations**

The National Maritime Heritage Grants Committee<sup>4</sup> shall review applications for subgrants under subsection (b) of this section, and direct grants or subgrants under subsection (c) of this section, and submit recommendations to the Secretary regarding projects which should receive funding under those direct grants and subgrants.

**(2) Allocation of grant funding**

To the extent feasible, the Secretary shall ensure that the amount made available under subsection (b) of this section for maritime heritage education projects is equal to the amount made available under subsection (c) of this section for maritime heritage preservation projects.

**(3) Limitation**

The amount provided by the Secretary in a fiscal year as grants under this section for projects relating to historic maritime resources owned or operated by the Federal Government shall not exceed 40 percent of the total amount available for the fiscal year for grants under this section.

**(g) Direct grants and subgrants process**

**(1) Direct grants and subgrants solicitation**

The Secretary shall publish annually in the Federal Register and otherwise as the Secretary considers appropriate—

(A) a solicitation of applications for direct grants and subgrants under this section;

(B) a list of priorities for the making of those direct grants and subgrants;

(C) a single deadline for the submission of applications for those direct grants and subgrants; and

(D) other relevant information.

**(2) Receipt and approval or disapproval of direct grant and subgrant applications**

Within 60 days after the submission of recommendations by the Committee to the Secretary under subsection (h)(6) of this section, the Secretary shall review and approve or disapprove a direct grant or subgrant for each project recommended by the Committee and provide to the Committee and the applicant the reasons for that approval or disapproval.

**(h) Direct grant and subgrant administration**

The National Trust shall be responsible for administering subgrants for maritime heritage education projects under subsection (b) of this section, the Secretary shall be responsible for administering direct grants for maritime heritage preservation projects under subsection (c) of this section, and the various State Historic Preservation Officers shall be responsible for administering subgrants for maritime heritage preservation projects under subsection (c) of this section, by—

- (1) publicizing the Program to prospective grantees, subgrantees, and to the public at large, in cooperation with the National Park Service, the Maritime Administration, and other appropriate government agencies and private institutions;
- (2) answering inquiries from the public, including providing information on the Program as requested;
- (3) distributing direct grant and subgrant applications;
- (4) receiving direct grant and subgrant applications and ensuring their completeness;
- (5) forwarding the applications to the Committee for review and recommendation;
- (6) submitting to the Secretary applications that the Committee recommends should be approved by the Secretary;
- (7) keeping records of all direct grant and subgrant awards and expenditures of funds;
- (8) monitoring progress of projects carried out with direct grants and subgrants; and
- (9) providing to the Secretary such progress reports as may be required by the Secretary.

**(i) Assistance of maritime preservation organizations**

The Secretary, the National Trust, and the State Historic Preservation Officers may, individually or jointly, enter into cooperative agreements with any private nonprofit organization with appropriate expertise in maritime preservation issues, or other qualified maritime preservation organizations, to assist in the administration of the Program.

**(j) Grants for interim projects****(1) Grants authority**

The Secretary, subject to paragraph (3), may use amounts available under section 5405(b)(2) of this title to make one or more grants described in paragraph (2).

**(2) Grants described**

The grants referred to in paragraph (1) are the following:

(A) A grant to the National Museum Association (a nonprofit organization located in San Francisco, California) for payment of expenses directly related to the preservation and restoration of the historic fleet of the San Francisco Maritime National Historical Park, located in San Francisco, California.

(B) A grant to the Virginia V Foundation (a nonprofit organization) for use in restoration and preservation of the historic steamship VIRGINIA V.

(C) A grant to any nonprofit organization which operates and maintains a former hospital ship to be converted to engage in public health activities, for use in refurbishing and maintaining the ship for those activities.

(D) A grant to the Mariners' Museum (a not-for-profit educational institution located in Newport News, Virginia,<sup>5</sup> for use for expenses directly related to the computerization of the library and archives of that museum, including for the purpose of providing to the public enhanced national access to those materials.

(E) A grant for each of fiscal years 1996, 1997, 1998, 1999, and 2000 to the Center for Maritime and Underwater Resource Management at Michigan State University, for a pilot project to plan, design, implement, and evaluate innovative approaches to management and development of maritime and underwater cultural resources at the following sites: Thunder Bay, the Manitou Passage, Isle Royale National Park, Keweenaw Peninsula, Marquette County, Alger County, Whitefish Point, the Straits of Mackinac, the Thumb Area, and Sanilac Shores.

**(3) Grant conditions**

The Secretary may not make a grant under this subsection unless the grantee complies with the requirements set forth in paragraphs (1) through (5) of subsection (d) of this section.

**(k) Report to Congress**

The Secretary shall submit to the Congress, after review by the Committee, an annual report on the Program, including—

- (1) a description of each project funded under the Program in the period covered by the report;
- (2) the results or accomplishments of each such project; and
- (3) recommended priorities for achieving the policy set forth in section 5402 of this title.

(Pub. L. 103–451, §4, Nov. 2, 1994, 108 Stat. 4770.)

<sup>1</sup> So in original. No pars. (3) and (4) have been enacted.

<sup>2</sup> So in original. No par. (3) has been enacted.

<sup>3</sup> So in original. Probably should be followed by a comma.

<sup>4</sup> So in original. Probably should be “National Maritime Heritage Grants Advisory Committee”.

<sup>5</sup> So in original. The comma probably should be a closing parenthesis.

#### **§5404. National Maritime Heritage Grants Advisory Committee**

##### **(a) Establishment**

There is hereby established a National Maritime Heritage Grants Advisory Committee.

##### **(b) Membership**

###### **(1) In general**

The Committee shall consist of 13 members appointed by the Secretary from among individual members of the public who—

- (A) are representatives of various sectors of the maritime community who are knowledgeable and experienced in maritime heritage and preservation;
- (B) to the extent practicable, are selected in a manner that ensures regional geographic balance;
- (C) to the extent practicable, include a representative of each of the fields of—

- (i) small craft preservation;
  - (ii) large vessel preservation;
  - (iii) sail training;
  - (iv) preservation architecture;
  - (v) underwater archaeology;
  - (vi) lighthouse preservation;
  - (vii) maritime education;
  - (viii) military naval history;
  - (ix) maritime museums or historical societies;
  - (x) maritime arts and crafts;
  - (xi) maritime heritage tourism; and
  - (xii) maritime recreational resources management; and
- (D) include a member of the general public.

**(2) Ex officio members**

In addition to the members appointed under paragraph (1), the President of the National Trust and the President of the National Conference of State Historic Preservation Officers (or their respective designees) shall be ex officio voting members of the Committee.

**(3) Term**

The term of a member of the Committee appointed under paragraph (1) shall be 3 years, except that of the members first appointed 4 shall be appointed for an initial term of 1 year and 4 shall be appointed for an initial term of 2 years, as specified by the Secretary at the time of appointment.

**(4) Completion of appointments**

The Secretary shall complete appointment of the members of the Committee under paragraph (1) by not later than 120 days after November 2, 1994.

**(5) Vacancies**

In the case of a vacancy in the membership of the Committee appointed under paragraph (1), the Secretary shall appoint an individual to serve the remainder of the term that is vacant by not later than 60 days after the vacancy occurs.

**(c) Federal Government ex officio members**

There shall be ex officio Federal Government members of the Committee as follows:

(1) At least 1 individual designated by each of—

(A) the Director of the National Park Service;

(B) the Administrator of the Maritime Administration;

(C) the Commandant of the Coast Guard;

(D) the Secretary of the Navy;

(E) the Administrator of the National Oceanic and Atmospheric Administration; and

(F) the Advisory Council on Historic Preservation.

(2) Other representatives designated by the heads of such other interested Federal Government agencies as the Secretary considers appropriate.

**(d) Duties of Committee**

The duties of the Committee include—

(1) reviewing direct grant and subgrant proposals and making funding recommendations to the Secretary;

(2) identifying and advising the Secretary regarding priorities for achieving the policy set forth in section 5402 of this title;

(3) reviewing the Secretary's annual report to the Congress under section 5403(k) of this title; and

(4) performing any other duties the Secretary considers appropriate.

**(e) Quorum**

Nine members of the Committee shall constitute a quorum for making recommendations on subgrant applications.

**(f) Appointments process**

The Secretary shall—

(1) publicize annually, in the Federal Register and through publications of preservation and maritime organizations, a request for submission of nominations for appointments to the Committee under subsection (b)(1) of this section; and

(2) designate from among the members of the Committee—

(A) a Chairman; and

(B) a Vice Chairman who may act in place of the Chairman during the absence or disability of the Chairman or when the office of Chairman is vacant.

**(g) Compensation and travel expenses**

An individual shall not receive any pay by reason of membership on the Committee. While away from home or regular place of business in the performance of service for the Committee, a member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service is allowed expenses under section 5703 of title 5.

**(h) Staff of Federal agencies**

Upon request of the Committee, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department of the Interior to the Committee to assist it in carrying out its duties under this chapter.

**(i) Administrative support services**

Upon the request of the Committee, the National Trust shall provide to the Committee the support services necessary for the Committee to carry out its duties under this chapter.

**(j) Relationship to other law**

The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee, except that meetings of the Committee may be closed to the public by majority vote and section 14(b) of that Act does not apply to the Committee.



**(k) Termination**

The Committee shall terminate on September 30, 2000.

(Pub. L. 103–451, §5, Nov. 2, 1994, 108 Stat. 4774.)

**References in Text**

The Federal Advisory Committee Act, referred to in subsec. (j), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

**Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§5405. Funding****(a) Availability of funds from sale and scrapping of obsolete vessels****(1) In general**

Notwithstanding any other provision of law, the amount of funds credited in a fiscal year to the Vessel Operations Revolving Fund established by section 50301(a) of title 46 that is attributable to the sale of obsolete vessels in the National Defense Reserve Fleet that are scrapped or sold under section 57102, 57103, or 57104 of title 46 shall be available until expended as follows:

(A) 50 percent shall be available to the Administrator of the Maritime Administration for such acquisition, maintenance, repair, reconditioning, or improvement of vessels in the National Defense Reserve Fleet as is authorized under other Federal law.

(B) 25 percent shall be available to the Administrator of the Maritime Administration for the payment or reimbursement of expenses incurred by or on behalf of State maritime academies or the United States Merchant Marine Academy for facility and training ship maintenance, repair, and modernization, and for the purchase of simulators and fuel.

(C) The remainder, whether collected before or after October 28, 2009, shall be available to the Secretary to carry out the Program, as provided in subsection (b) of this section or,

if otherwise determined by the Maritime Administrator, for use in the preservation and presentation to the public of maritime heritage property of the Maritime Administration.

**(2) Application**

Paragraph (1) does not apply to amounts credited to the Vessel Operations Revolving Fund before July 1, 1994.

**(b) Use of amounts for Program**

**(1) In general**

Except as provided in paragraph (2), of amounts available each fiscal year for the Program under subsection (a)(1)(C) of this section—

(A)  $\frac{1}{2}$  shall be used for grants under section 5403(b) of this title; and

(B)  $\frac{1}{2}$  shall be used for grants under section 5403(c) of this title.

**(2) Use for interim projects**

Amounts available for the Program under subsection (a)(1)(C) of this section that are the proceeds of any of the first 8 obsolete vessels in the National Defense Reserve Fleet that are sold or scrapped after July 1, 1994, under section 57102, 57103, or 57104 of title 46 are available to the Secretary for grants for interim projects approved under section 5403(j) of this title.

**(3) Administrative expenses**

**(A) In general**

Not more than 15 percent or \$500,000, whichever is less, of the amount available for the Program under subsection (a)(1)(C) of this section for a fiscal year may be used for expenses of administering the Program.

**(B) Allocation**

Of the amount available under subparagraph (A) for a fiscal year—

(i)  $\frac{1}{2}$  shall be allocated to the National Trust for expenses incurred in administering grants under section 5403(b) of this title; and

(ii)  $\frac{1}{2}$  shall be allocated as appropriate by the Secretary to the National Park Service and participating State Historic Preservation Officers.

**(c) Disposals of vessels**

**(1) Requirement**

The Secretary of Transportation shall dispose (either by sale or purchase of disposal services) of all vessels described in paragraph (2)—

(A) in accordance with a priority system for disposing of vessels, as determined by the Secretary, which shall include provisions requiring the Maritime Administration to—

(i) dispose of all deteriorated high priority ships that are available for disposal, within 12 months of their designation as such; and

(ii) give priority to the disposition of those vessels that pose the most significant danger to the environment or cost the most to maintain;

(B) in the manner that provides the best value to the Government, except in any case in which obtaining the best value would require towing a vessel and such towing poses a serious threat to the environment; and

(C) in accordance with the plan of the Department of Transportation for disposal of those vessels and requirements under sections 57102 to 57104 of title 46.

**(2) Vessels described**

The vessels referred to in paragraph (1) are the vessels in the National Defense Reserve Fleet after July 1, 1994, that—

(A) are not assigned to the Ready Reserve Force component of that fleet; and

(B) are not specifically authorized or required by statute to be used for a particular purpose.

**(d) Treatment of amounts available**

Amounts available under this section shall not be considered in any determination of the amounts available to the Department of the Interior.

(Pub. L. 103–451, §6, Nov. 2, 1994, 108 Stat. 4776; Pub. L. 105–85, div. A, title X, §1026(c), Nov. 18, 1997, 111 Stat. 1878; Pub. L. 106–398, §1 [div. C, title XXXV, §3502(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–490; Pub. L. 110–181, div. C, title XXXV, §3514, Jan. 28, 2008, 122 Stat. 594; Pub. L. 111–84, div. C, title XXXV, §3509, Oct. 28, 2009, 123 Stat. 2721; Pub. L. 111–383, div. A, title X, §1075(n), Jan. 7, 2011, 124 Stat. 4378.)

## Codification

“Section 50301(a) of title 46” substituted in subsec. (a)(1) for “Act of June 2, 1951 (46 App. U.S.C. 1241a),”, “section 57102, 57103, or 57104 of title 46” substituted in subsec. (a)(1) for “section 508 or 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 or 1160(i))” and in subsec. (b)(2) for “section 508 or 510(i) of the Merchant Marine Act, 1936 (46 U.S.C. 1158 or 1160(i))”, and “sections 57102 to 57104 of title 46” substituted in subsec. (c)(1)(C) for “sections 508 and 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(i))”, on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted sections 50301 and 57102 to 57104 of Title 46, Shipping.

## Amendments

**2011**—Subsec. (a)(1)(C). Pub. L. 111–383 substituted “October 28, 2009” for “the date of enactment of the Maritime Administration Authorization Act of 2010”.

**2009**—Subsec. (a)(1)(C). Pub. L. 111–84 added subpar. (C) and struck out former subpar. (C) which read as follows: “The remainder shall be available to the Secretary to carry out the Program, as provided in subsection (b) of this section.”

**2008**—Subsec. (c)(1). Pub. L. 110–181, §3514(1), inserted “(either by sale or purchase of disposal services)” after “shall dispose” in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 110–181, §3514(2), added subpar. (A) and struck out former subpar. (A) which read as follows: “by September 30, 2006;”.

**2000**—Subsec. (c)(1)(A). Pub. L. 106–398, §1 [div. C, title XXXV, §3502(a)(1)], substituted “2006” for “2001”.

Subsec. (c)(1)(B). Pub. L. 106–398, §1 [div. C, title XXXV, §3502(a)(2)], added subpar. (B) and struck out former subpar. (B) which read as follows: “in a manner that maximizes the return on the vessels to the United States; and”.

**1997**—Subsec. (a)(1). Pub. L. 105–85, §1026(c)(1), inserted “or 1160(i)” after “1158” in introductory provisions.

Subsec. (b)(2). Pub. L. 105–85, §1026(c)(1), (2), inserted “or 1160(i)” after “1158” and substituted “first 8” for “first 6”.

Subsec. (c)(1)(A). Pub. L. 105–85, §1026(c)(3), substituted “2001” for “1999”.

## Pilot Program on Export of Obsolete Vessels for Dismantlement and Recycling

Pub. L. 107–314, div. C, title XXXV, §3504(c), (d), Dec. 2, 2002, 116 Stat. 2755, 2756, provided that:

(c) Pilot Program on Export of Obsolete Vessels for Dismantlement and Recycling.—

(1)(A) The Secretary of Transportation, Secretary of State, and Administrator of the Environmental Protection Agency shall jointly carry out one or more pilot programs through the Maritime Administration to explore the feasibility and advisability of various alternatives for exporting obsolete vessels in the National Defense Reserve Fleet for purposes of the dismantlement and recycling of such vessels.

(B) The pilot programs shall be carried out in accordance with applicable provisions of law and regulations.

(2)(A) The pilot programs under paragraph (1) shall be carried out during fiscal year 2003.

(B) The pilot programs shall include a total of not more than four vessels.

(C) The authority provided by this subsection is in addition to any other authority available to Maritime Administration for exporting obsolete vessels in the National Defense Reserve Fleet.

(3) Activities under the pilot programs under paragraph (1) shall include the following:

(A) Exploration of the feasibility and advisability of a variety of alternatives (developed for purposes of the pilot programs) for exporting obsolete vessels in the National Defense Reserve Fleet for purposes of the dismantlement and recycling of such vessels.

(B) Response by the Maritime Administration to proposals from the international ship recycling industry for innovative and cost-effective disposal solutions for obsolete vessels in the National Defense Reserve Fleet, including an evaluation of the feasibility and advisability of such proposals.

(C) Demonstration of the extent to which the cost-effective dismantlement or recycling of obsolete vessels in the National Defense Reserve Fleet can be accomplished abroad in [a] manner that appropriately addresses concerns regarding worker health and safety and the environment.

(D) Opportunities to transfer abroad processes, methodologies, and technologies for ship dismantlement and recycling in order to support the pilot programs and to improve international practices and standards for ship dismantlement and recycling.

(E) Exploration of cooperative efforts with foreign governments (under a global action program on ship recycling or other program) in order to foster economically and environmentally sound ship recycling abroad.

(4) The Secretary of Transportation shall submit to Congress a report on the pilot programs 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 [section 1 [div. C, title XXXV, §3502] of Pub. L. 106–398, which amended this section and enacted provisions set out below]. The report shall include a description of the activities under the pilot programs, and such recommendations for further legislative or administrative action as the Secretary considers appropriate.

(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.

#### **Scrapping of National Defense Reserve Fleet Vessels**

Pub. L. 106–398, §1 [div. C, title XXXV, §3502(b)–(f)], Oct. 30, 2000, 114 Stat. 1654, 1654A–490 to 1654A–492, as amended by Pub. L. 109–163, div. C, title XXXV, §3505(a), Jan. 6, 2006, 119 Stat. 3551, provided that:

(b) Selection of Scrapping Facilities.—The Secretary of Transportation may scrap obsolete vessels pursuant to section 6(c)(1) of the National Maritime Heritage Act of 1994 (16 U.S.C. 5405(c)(1)) through qualified scrapping facilities, using the most expeditious scrapping methodology and location practicable. Scrapping facilities shall be selected under that section on a best value basis consistent with the Federal Acquisition Regulation, as in effect on the date of the enactment of this Act [Oct. 30, 2000], without any predisposition toward foreign or domestic facilities taking into consideration, among other things, the ability of facilities to scrap vessels—

- (1) at least cost to the Government;
- (2) in a timely manner;
- (3) giving consideration to worker safety and the environment; and
- (4) in a manner that minimizes the geographic distance that a vessel must be towed when towing a vessel poses a serious threat to the environment.

(c) Comprehensive Management Plan.—

(1) Requirement to develop plan.—The Secretary of Transportation shall prepare, publish, and submit to the Congress by not later than 180 days after the date of the enactment of this Act [probably should be “this subsection”, Jan. 6, 2006] a comprehensive plan for management of the vessel disposal program of the Maritime Administration in accordance with the recommendations made in the Government Accountability Office in report number GAO–05–264, dated March 2005.

(2) Contents of plan.—The plan shall—

(A) include a strategy and implementation plan for disposal of obsolete National Defense Reserve Fleet vessels (including vessels added to the fleet after the enactment of this paragraph) in a timely manner, maximizing the use of all available disposal methods, including dismantling, use for artificial reefs, donation, and Navy training exercises;

(B) identify and describe the funding and other resources necessary to implement the plan, and specific milestones for disposal of vessels under the plan;

(C) establish performance measures to track progress toward achieving the goals of the program, including the expeditious disposal of ships commencing upon the date of the enactment of this paragraph;

(D) develop a formal decisionmaking framework for the program; and

(E) identify external factors that could impede successful implementation of the plan, and describe steps to be taken to mitigate the effects of such factors.

(d) Implementation of Management Plan.—

(1) Requirement to implement.—Subject to the availability of appropriations, the Secretary shall implement the vessel disposal program of the Maritime Administration in accordance with—

(A) the management plan submitted under subsection (c); and

(B) the requirements set forth in paragraph (2).

(2) Utilization of domestic sources.—In the procurement of services under the vessel disposal program of the Maritime Administration, the Secretary shall—

(A) use full and open competition; and

(B) utilize domestic sources to the maximum extent practicable.

(e) Failure to Submit Plan.—

(1) Private management contract for disposal of Maritime Administration vessels.—The Secretary of Transportation, subject to the availability of appropriations, shall promptly award a contract using full and open competition to expeditiously implement all aspects of disposal of obsolete National Defense Reserve Fleet vessels.

(2) Application.—This subsection shall apply beginning 180 days after the date of the enactment of this subsection [Jan. 6, 2006], unless the Secretary of Transportation has submitted to the Congress the comprehensive plan required under subsection (c).

(f) Report.—No later than 1 year after the date of the enactment of this subsection [Jan. 6, 2006], and every 6 months thereafter, the Secretary of Transportation, in coordination with the Secretary of the Navy, shall report to the Committee on Transportation and Infrastructure, the Committee on Resources [now Committee on Natural Resources], and the Committee on Armed Services of the House of Representatives, and to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate, on the progress made in implementing the vessel disposal plan developed under subsection (c). In particular, the report shall address the performance measures required to be established under subsection (c)(2)(C).

**§5406. Definitions**

In this chapter:

**(1) Committee**

The term “Committee” means the Maritime Heritage Grants Advisory Committee established under section 5404 of this title.

**(2) National Trust**

The term “National Trust” means the National Trust for Historic Preservation created by section 468 of this title.

**(3) Private nonprofit organization**

The term “private nonprofit organization” means any person that is exempt from taxation under section 501(a) of title 26 and described in section 501(c)(3) of title 26.

**(4) Program**

The term “Program” means the National Maritime Heritage Grants Program established by section 5403(a) of this title.



**(5) Secretary**

The term “Secretary” means the Secretary of the Interior.

**(6) State Historic Preservation Officer**

The term “State Historic Preservation Officer” means a State Historic Preservation Officer appointed pursuant to paragraph (1)(A) of section 470a(b) of this title by the Governor of a State having a State Historic Preservation Program approved by the Secretary under that section.

(Pub. L. 103–451, §7, Nov. 2, 1994, 108 Stat. 4777.)

**§5407. Regulations**

The Secretary, after consultation with the National Trust, the National Conference of State Historic Preservation Officers, and appropriate members of the maritime heritage community, shall promulgate appropriate guidelines, procedures, and regulations within 1 year after November 2, 1994, to carry out the chapter, including regulations establishing terms of office for the initial membership of the Committee, direct grant and subgrant priorities, the method of solicitation and review of direct grant and subgrant proposals, criteria for review of direct grant and subgrant proposals, administrative requirements, reporting and recordkeeping requirements, and any other requirements the Secretary considers appropriate.

(Pub. L. 103–451, §8, Nov. 2, 1994, 108 Stat. 4778.)

**§5408. Savings provision**

The authorities contained in this chapter shall be in addition to, and shall not be construed to supercede or modify those contained in the National Historic Preservation Act (16 U.S.C. 470—470x–6).

(Pub. L. 103–451, §9, Nov. 2, 1994, 108 Stat. 4778.)

**References in Text**

The National Historic Preservation Act, referred to in text, is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470 of this title and Tables.

**§5409. Designation of America's National Maritime Museum**

**(a) In general**

America's National Maritime Museum is comprised of those museums designated by law to be museums of America's National Maritime Museum on the basis that they—

- (1) house a collection of maritime artifacts clearly representing the Nation's maritime heritage; and
- (2) provide outreach programs to educate the public about the Nation's maritime heritage.

**(b) Initial designation of museums**

The following museums (meeting the criteria specified in subsection (a) of this section) are hereby designated as museums of America's National Maritime Museum:

- (1) The Mariners' Museum, located at 100 Museum Drive, Newport News, Virginia.
- (2) The South Street Seaport Museum, located at 207 Front Street, New York, New York.

**(c) Future designation of other museums not precluded**

The designation of the museums referred to in subsection (b) of this section as museums of America's National Maritime Museum does not preclude the designation by law after October 17, 1998, of any other museum that meets the criteria specified in subsection (a) of this section as a museum of America's National Maritime Museum.

**(d) Reference to museums**

Any reference in any law, map, regulation, document, paper, or other record of the United States to a museum designated by law to be a museum of America's National Maritime Museum shall be deemed to be a reference to that museum as a museum of America's National Maritime Museum.

(Pub. L. 105–261, div. A, title X, §1068, Oct. 17, 1998, 112 Stat. 2135.)

**Codification**

Section enacted as part of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, and not as part of the National Maritime Heritage Act of 1994 which comprises this chapter.

## **VIII. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION**

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(as of January 2011)

### 25 U.S.C. Ch. 32: NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION

From Title 25—INDIANS

#### CHAPTER 32—NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION

Sec.

3001. Definitions.

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#### **§3001. Definitions**

For purposes of this chapter, the term—

(1) “burial site” means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture, individual human remains are deposited.

(2) “cultural affiliation” means that there is a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian tribe or Native Hawaiian organization and an identifiable earlier group.

(3) “cultural items” means human remains and—

(A) “associated funerary objects” which shall mean objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with

individual human remains either at the time of death or later, and both the human remains and associated funerary objects are presently in the possession or control of a Federal agency or museum, except that other items exclusively made for burial purposes or to contain human remains shall be considered as associated funerary objects.[1]

(B) “unassociated funerary objects” which shall mean objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, where the remains are not in the possession or control of the Federal agency or museum and the objects can be identified by a preponderance of the evidence as related to specific individuals or families or to known human remains or, by a preponderance of the evidence, as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe,

(C) “sacred objects” which shall mean specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents, and

(D) “cultural patrimony” which shall mean an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group.

(4) “Federal agency” means any department, agency, or instrumentality of the United States. Such term does not include the Smithsonian Institution.

(5) “Federal lands” means any land other than tribal lands which are controlled or owned by the United States, including lands selected by but not yet conveyed to Alaska Native Corporations and groups organized pursuant to the Alaska Native Claims Settlement Act of 1971 [43 U.S.C. 1601 et seq.].

(6) “Hui Malama I Na Kupuna O Hawai'i Nei” means the nonprofit, Native Hawaiian organization incorporated under the laws of the State of Hawaii by that name on April 17, 1989, for the purpose of providing guidance and expertise in decisions dealing with Native Hawaiian cultural issues, particularly burial issues.

(7) “Indian tribe” means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to,

the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(8) “museum” means any institution or State or local government agency (including any institution of higher learning) that receives Federal funds and has possession of, or control over, Native American cultural items. Such term does not include the Smithsonian Institution or any other Federal agency.

(9) “Native American” means of, or relating to, a tribe, people, or culture that is indigenous to the United States.

(10) “Native Hawaiian” means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

(11) “Native Hawaiian organization” means any organization which—

(A) serves and represents the interests of Native Hawaiians,

(B) has as a primary and stated purpose the provision of services to Native Hawaiians, and

(C) has expertise in Native Hawaiian Affairs, and shall include the Office of Hawaiian Affairs and Hui Malama I Na Kupuna O Hawai'i Nei.

(12) “Office of Hawaiian Affairs” means the Office of Hawaiian Affairs established by the constitution of the State of Hawaii.

(13) “right of possession” means possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object or object of cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with authority to alienate such object is deemed to give right of possession of that object, unless the phrase so defined would, as applied in section 3005(c) of this title, result in a Fifth Amendment taking by the United States as determined by the United States Court of Federal Claims pursuant to 28 U.S.C. 1491 in which event the “right of possession” shall be as provided under otherwise applicable property law. The original acquisition of Native American human remains and associated funerary objects which were excavated, exhumed, or otherwise obtained with full knowledge and consent of the next of kin or the official governing body of the

appropriate culturally affiliated Indian tribe or Native Hawaiian organization is deemed to give right of possession to those remains.

(14) “Secretary” means the Secretary of the Interior.

(15) “tribal land” means—

(A) all lands within the exterior boundaries of any Indian reservation;

(B) all dependent Indian communities; [2]

(C) any lands administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act, 1920, and section 4 of Public Law 86–3.

(Pub. L. 101–601, §2, Nov. 16, 1990, 104 Stat. 3048; Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

### **References in Text**

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 101–601, Nov. 16, 1990, 104 Stat. 3048, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Alaska Native Claims Settlement Act of 1971, referred to in par. (5), probably means the Alaska Native Claims Settlement Act. See note below.

The Alaska Native Claims Settlement Act, referred to in par. (7), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Hawaiian Homes Commission Act, 1920, referred to in par. (15)(C), is act July 9, 1921, ch. 42, 42 Stat. 108, as amended, which was classified generally to sections 691 to 718 of Title 48, Territories and Insular Possessions, and was omitted from the Code.

Section 4 of Public Law 86–3, referred to in par. (15)(C), is section 4 of Pub. L. 86–3, which is set out as a note preceding section 491 of Title 48.

### **Amendments**

1992—Par. (13). Pub. L. 102–572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

### **Effective Date of 1992 Amendment**

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

### **Short Title**

Section 1 of Pub. L. 101–601 provided that: “This Act [enacting this chapter and section 1170 of Title 18, Crimes and Criminal Procedure] may be cited as the ‘Native American Graves Protection and Repatriation Act’.”

[1] So in original. The period probably should be a comma.

[2] So in original. Probably should be followed by “and”.

### **§3002. Ownership**

#### **(a) Native American human remains and objects**

The ownership or control of Native American cultural items which are excavated or discovered on Federal or tribal lands after November 16, 1990, shall be (with priority given in the order listed)—

(1) in the case of Native American human remains and associated funerary objects, in the lineal descendants of the Native American; or

(2) in any case in which such lineal descendants cannot be ascertained, and in the case of unassociated funerary objects, sacred objects, and objects of cultural patrimony—

(A) in the Indian tribe or Native Hawaiian organization on whose tribal land such objects or remains were discovered;

(B) in the Indian tribe or Native Hawaiian organization which has the closest cultural affiliation with such remains or objects and which, upon notice, states a claim for such remains or objects; or

(C) if the cultural affiliation of the objects cannot be reasonably ascertained and if the objects were discovered on Federal land that is recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of some Indian tribe—

(1) in the Indian tribe that is recognized as aboriginally occupying the area in which the objects were discovered, if upon notice, such tribe states a claim for such remains or objects, or

(2) if it can be shown by a preponderance of the evidence that a different tribe has a stronger cultural relationship with the remains or objects than the tribe or organization specified in paragraph (1), in the Indian tribe that has the strongest demonstrated relationship, if upon notice, such tribe states a claim for such remains or objects.

**(b) Unclaimed Native American human remains and objects**

Native American cultural items not claimed under subsection (a) of this section shall be disposed of in accordance with regulations promulgated by the Secretary in consultation with the review committee established under section 3006 of this title, Native American groups, representatives of museums and the scientific community.

**(c) Intentional excavation and removal of Native American human remains and objects**

The intentional removal from or excavation of Native American cultural items from Federal or tribal lands for purposes of discovery, study, or removal of such items is permitted only if—

(1) such items are excavated or removed pursuant to a permit issued under section 470cc of title 16 which shall be consistent with this chapter;

(2) such items are excavated or removed after consultation with or, in the case of tribal lands, consent of the appropriate (if any) Indian tribe or Native Hawaiian organization;

(3) the ownership and right of control of the disposition of such items shall be as provided in subsections (a) and (b) of this section; and

(4) proof of consultation or consent under paragraph (2) is shown.

**(d) Inadvertent discovery of Native American remains and objects**

(1) Any person who knows, or has reason to know, that such person has discovered Native American cultural items on Federal or tribal lands after November 16, 1990, shall notify, in writing, the Secretary of the Department, or head of any other agency or instrumentality of the United States, having primary management authority with respect to Federal lands and the appropriate Indian tribe or Native Hawaiian organization with respect to tribal lands, if known or readily ascertainable, and, in the case of lands that



have been selected by an Alaska Native Corporation or group organized pursuant to the Alaska Native Claims Settlement Act of 1971 [43 U.S.C. 1601 et seq.], the appropriate corporation or group. If the discovery occurred in connection with an activity, including (but not limited to) construction, mining, logging, and agriculture, the person shall cease the activity in the area of the discovery, make a reasonable effort to protect the items discovered before resuming such activity, and provide notice under this subsection. Following the notification under this subsection, and upon certification by the Secretary of the department or the head of any agency or instrumentality of the United States or the appropriate Indian tribe or Native Hawaiian organization that notification has been received, the activity may resume after 30 days of such certification.

(2) The disposition of and control over any cultural items excavated or removed under this subsection shall be determined as provided for in this section.

(3) If the Secretary of the Interior consents, the responsibilities (in whole or in part) under paragraphs (1) and (2) of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary with respect to any land managed by such other Secretary or agency head.

#### **(e) Relinquishment**

Nothing in this section shall prevent the governing body of an Indian tribe or Native Hawaiian organization from expressly relinquishing control over any Native American human remains, or title to or control over any funerary object, or sacred object.

(Pub. L. 101–601, §3, Nov. 16, 1990, 104 Stat. 3050.)

#### **References in Text**

The Indian Claims Commission, referred to in subsec. (a)(2)(C), terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

The United States Court of Claims, referred to in subsec. (a)(2)(C), and the United States Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

The Alaska Native Claims Settlement Act of 1971, referred to in subsec. (d)(1), probably means the Alaska Native Claims Settlement Act, Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, and which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

### **§3003. Inventory for human remains and associated funerary objects**

#### **(a) In general**

Each Federal agency and each museum which has possession or control over holdings or collections of Native American human remains and associated funerary objects shall compile an inventory of such items and, to the extent possible based on information possessed by such museum or Federal agency, identify the geographical and cultural affiliation of such item.[1]

#### **(b) Requirements**

(1) The inventories and identifications required under subsection (a) of this section shall be—

(A) completed in consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders;

(B) completed by not later than the date that is 5 years after November 16, 1990, and

(C) made available both during the time they are being conducted and afterward to a review committee established under section 3006 of this title.

(2) Upon request by an Indian tribe or Native Hawaiian organization which receives or should have received notice, a museum or Federal agency shall supply additional available documentation to supplement the information required by subsection (a) of this section. The term “documentation” means a summary of existing museum or Federal agency records, including inventories or catalogues, relevant studies, or other pertinent data for the limited purpose of determining the geographical origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American human remains and associated funerary objects subject to this section. Such term does not mean, and this chapter shall not be construed to be an authorization for, the initiation of new scientific studies of such remains and associated funerary objects or other means of acquiring or preserving additional scientific information from such remains and objects.

#### **(c) Extension of time for inventory**

Any museum which has made a good faith effort to carry out an inventory and identification under this section, but which has been unable to complete the process, may appeal to the Secretary for an extension of the time requirements set forth in subsection (b)(1)(B) of this section. The Secretary may extend such time requirements for any such museum upon a finding of good faith effort. An indication of good faith shall include the development of a plan to carry out the inventory and identification process.

**(d) Notification**

(1) If the cultural affiliation of any particular Native American human remains or associated funerary objects is determined pursuant to this section, the Federal agency or museum concerned shall, not later than 6 months after the completion of the inventory, notify the affected Indian tribes or Native Hawaiian organizations.

(2) The notice required by paragraph (1) shall include information—

(A) which identifies each Native American human remains or associated funerary objects and the circumstances surrounding its acquisition;

(B) which lists the human remains or associated funerary objects that are clearly identifiable as to tribal origin; and

(C) which lists the Native American human remains and associated funerary objects that are not clearly identifiable as being culturally affiliated with that Indian tribe or Native Hawaiian organization, but which, given the totality of circumstances surrounding acquisition of the remains or objects, are determined by a reasonable belief to be remains or objects culturally affiliated with the Indian tribe or Native Hawaiian organization.

(3) A copy of each notice provided under paragraph (1) shall be sent to the Secretary who shall publish each notice in the Federal Register.

**(e) Inventory**

For the purposes of this section, the term “inventory” means a simple itemized list that summarizes the information called for by this section.

(Pub. L. 101–601, §5, Nov. 16, 1990, 104 Stat. 3052.)

[1] So in original. Probably should be “items.”

**§3004. Summary for unassociated funerary objects, sacred objects, and cultural patrimony**

**(a) In general**

Each Federal agency or museum which has possession or control over holdings or collections of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony shall provide a written summary of such objects based upon available information held by such agency or museum. The summary shall describe the scope of the collection, kinds of objects included, reference to geographical location, means and period of acquisition and cultural affiliation, where readily ascertainable.

**(b) Requirements**

(1) The summary required under subsection (a) of this section shall be—

(A) in lieu of an object-by-object inventory;

(B) followed by consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders; and

(C) completed by not later than the date that is 3 years after November 16, 1990.

(2) Upon request, Indian Tribes [1] and Native Hawaiian organizations shall have access to records, catalogues, relevant studies or other pertinent data for the limited purposes of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American objects subject to this section. Such information shall be provided in a reasonable manner to be agreed upon by all parties.

(Pub. L. 101–601, §6, Nov. 16, 1990, 104 Stat. 3053.)

[1] So in original. Probably should not be capitalized.

**§3005. Repatriation****(a) Repatriation of Native American human remains and objects possessed or controlled by Federal agencies and museums**

(1) If, pursuant to section 3003 of this title, the cultural affiliation of Native American human remains and associated funerary objects with a particular Indian tribe or Native Hawaiian organization is established, then the Federal agency or museum, upon the request of a known lineal descendant of the Native American or of the tribe or organization and pursuant to subsections (b) and (e) of this section, shall expeditiously return such remains and associated funerary objects.

(2) If, pursuant to section 3004 of this title, the cultural affiliation with a particular Indian tribe or Native Hawaiian organization is shown with respect to unassociated funerary objects, sacred objects or objects of cultural patrimony, then the Federal agency or museum, upon the request of the Indian tribe or Native Hawaiian organization and pursuant to subsections (b), (c) and (e) of this section, shall expeditiously return such objects.

(3) The return of cultural items covered by this chapter shall be in consultation with the requesting lineal descendant or tribe or organization to determine the place and manner of delivery of such items.

(4) Where cultural affiliation of Native American human remains and funerary objects has not been established in an inventory prepared pursuant to section 3003 of this title, or the summary pursuant to section 3004 of this title, or where Native American human remains and funerary objects are not included upon any such inventory, then, upon request and pursuant to subsections (b) and (e) of this section and, in the case of unassociated funerary objects, subsection (c) of this section, such Native American human remains and funerary objects shall be expeditiously returned where the requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion.

(5) Upon request and pursuant to subsections (b), (c) and (e) of this section, sacred objects and objects of cultural patrimony shall be expeditiously returned where—

(A) the requesting party is the direct lineal descendant of an individual who owned the sacred object;

(B) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the tribe or organization; or

(C) the requesting Indian tribe or Native Hawaiian organization can show that the sacred object was owned or controlled by a member thereof, provided that in the case where a sacred object was owned by a member thereof, there are no identifiable lineal descendants of said member or the lineal descendants, upon notice, have failed to make a claim for the object under this chapter.

**(b) Scientific study**

If the lineal descendant, Indian tribe, or Native Hawaiian organization requests the return of culturally affiliated Native American cultural items, the Federal agency or museum shall expeditiously return such items unless such items are indispensable for completion of a specific scientific study, the outcome of which would be of major benefit to the United States. Such items shall be returned by no later than 90 days after the date on which the scientific study is completed.

**(c) Standard of repatriation**

If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects or objects of cultural patrimony pursuant to this chapter and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Federal agency or museum did not have the right of possession, then such agency or museum shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

**(d) Sharing of information by Federal agencies and museums**

Any Federal agency or museum shall share what information it does possess regarding the object in question with the known lineal descendant, Indian tribe, or Native Hawaiian organization to assist in making a claim under this section.

**(e) Competing claims**

Where there are multiple requests for repatriation of any cultural item and, after complying with the requirements of this chapter, the Federal agency or museum cannot clearly determine which requesting party is the most appropriate claimant, the agency or museum may retain such item until the requesting parties agree upon its disposition or the dispute is otherwise resolved pursuant to the provisions of this chapter or by a court of competent jurisdiction.

**(f) Museum obligation**

Any museum which repatriates any item in good faith pursuant to this chapter shall not be liable for claims by an aggrieved party or for claims of breach of fiduciary duty, public trust, or violations of state [1] law that are inconsistent with the provisions of this chapter.

(Pub. L. 101-601, §7, Nov. 16, 1990, 104 Stat. 3054.)

[1] So in original. Probably should be capitalized.

**§3006. Review committee****(a) Establishment**

Within 120 days after November 16, 1990, the Secretary shall establish a committee to monitor and review the implementation of the inventory and identification process and repatriation activities required under sections 3003, 3004 and 3005 of this title.

**(b) Membership**

(1) The Committee [1] established under subsection (a) of this section shall be composed of 7 members,

(A) 3 of whom shall be appointed by the Secretary from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders with at least 2 of such persons being traditional Indian religious leaders;

(B) 3 of whom shall be appointed by the Secretary from nominations submitted by national museum organizations and scientific organizations; and

(C) 1 who shall be appointed by the Secretary from a list of persons developed and consented to by all of the members appointed pursuant to subparagraphs (A) and (B).

(2) The Secretary may not appoint Federal officers or employees to the committee.

(3) In the event vacancies shall occur, such vacancies shall be filled by the Secretary in the same manner as the original appointment within 90 days of the occurrence of such vacancy.

(4) Members of the committee established under subsection (a) of this section shall serve without pay, but shall be reimbursed at a rate equal to the daily rate for GS-18 of the General Schedule for each day (including travel time) for which the member is actually engaged in committee business. Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

**(c) Responsibilities**

The committee established under subsection (a) of this section shall be responsible for—

(1) designating one of the members of the committee as chairman;

- (2) monitoring the inventory and identification process conducted under sections 3003 and 3004 of this title to ensure a fair, objective consideration and assessment of all available relevant information and evidence;
- (3) upon the request of any affected party, reviewing and making findings related to—
  - (A) the identity or cultural affiliation of cultural items, or
  - (B) the return of such items;
- (4) facilitating the resolution of any disputes among Indian tribes, Native Hawaiian organizations, or lineal descendants and Federal agencies or museums relating to the return of such items including convening the parties to the dispute if deemed desirable;
- (5) compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such remains;
- (6) consulting with Indian tribes and Native Hawaiian organizations and museums on matters within the scope of the work of the committee affecting such tribes or organizations;
- (7) consulting with the Secretary in the development of regulations to carry out this chapter;
- (8) performing such other related functions as the Secretary may assign to the committee; and
- (9) making recommendations, if appropriate, regarding future care of cultural items which are to be repatriated.

**(d) Admissibility of records and findings**

Any records and findings made by the review committee pursuant to this chapter relating to the identity or cultural affiliation of any cultural items and the return of such items may be admissible in any action brought under section 3013 of this title.

**(e) Recommendations and report**

The committee shall make the recommendations under paragraph [2] (c)(5) in consultation with Indian tribes and Native Hawaiian organizations and appropriate scientific and museum groups.



**(f) Access**

The Secretary shall ensure that the committee established under subsection (a) of this section and the members of the committee have reasonable access to Native American cultural items under review and to associated scientific and historical documents.

**(g) Duties of Secretary**

The Secretary shall—

- (1) establish such rules and regulations for the committee as may be necessary, and
- (2) provide reasonable administrative and staff support necessary for the deliberations of the committee.

**(h) Annual report**

The committee established under subsection (a) of this section shall submit an annual report to the Congress on the progress made, and any barriers encountered, in implementing this section during the previous year.

**(i) Termination**

The committee established under subsection (a) of this section shall terminate at the end of the 120-day period beginning on the day the Secretary certifies, in a report submitted to Congress, that the work of the committee has been completed.

(Pub. L. 101–601, §8, Nov. 16, 1990, 104 Stat. 3055.)

**References in Other Laws to GS–16, 17, or 18 Pay Rates**

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

[1] So in original. Probably should not be capitalized.

[2] So in original. Probably should be “subsection”.

**§3007. Penalty****(a) Penalty**

Any museum that fails to comply with the requirements of this chapter may be assessed a civil penalty by the Secretary of the Interior pursuant to procedures established by the Secretary through regulation. A penalty assessed under this subsection shall be determined on the record after opportunity for an agency hearing. Each violation under this subsection shall be a separate offense.

**(b) Amount of penalty**

The amount of a penalty assessed under subsection (a) of this section shall be determined under regulations promulgated pursuant to this chapter, taking into account, in addition to other factors—

- (1) the archaeological, historical, or commercial value of the item involved;
- (2) the damages suffered, both economic and noneconomic, by an aggrieved party,[1] and
- (3) the number of violations that have occurred.

**(c) Actions to recover penalties**

If any museum fails to pay an assessment of a civil penalty pursuant to a final order of the Secretary that has been issued under subsection (a) of this section and not appealed or after a final judgment has been rendered on appeal of such order, the Attorney General may institute a civil action in an appropriate district court of the United States to collect the penalty. In such action, the validity and amount of such penalty shall not be subject to review.

**(d) Subpoenas**

In hearings held pursuant to subsection (a) of this section, subpoenas may be issued for the attendance and testimony of witnesses and the production of relevant papers, books, and documents. Witnesses so summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

(Pub. L. 101-601, §9, Nov. 16, 1990, 104 Stat. 3057.)

[1] So in original. The comma probably should be a semicolon.

**§3008. Grants**

**(a) Indian tribes and Native Hawaiian organizations**

The Secretary is authorized to make grants to Indian tribes and Native Hawaiian organizations for the purpose of assisting such tribes and organizations in the repatriation of Native American cultural items.

**(b) Museums**

The Secretary is authorized to make grants to museums for the purpose of assisting the museums in conducting the inventories and identification required under sections 3003 and 3004 of this title.

(Pub. L. 101–601, §10, Nov. 16, 1990, 104 Stat. 3057.)

**§3009. Savings provision**

Nothing in this chapter shall be construed to—

(1) limit the authority of any Federal agency or museum to—

(A) return or repatriate Native American cultural items to Indian tribes, Native Hawaiian organizations, or individuals, and

(B) enter into any other agreement with the consent of the culturally affiliated tribe or organization as to the disposition of, or control over, items covered by this chapter;

(2) delay actions on repatriation requests that are pending on November 16, 1990;

(3) deny or otherwise affect access to any court;

(4) limit any procedural or substantive right which may otherwise be secured to individuals or Indian tribes or Native Hawaiian organizations; or

(5) limit the application of any State or Federal law pertaining to theft or stolen property.

(Pub. L. 101–601, §11, Nov. 16, 1990, 104 Stat. 3057.)

**§3010. Special relationship between Federal Government and Indian tribes and Native Hawaiian organizations**

This chapter reflects the unique relationship between the Federal Government and Indian tribes and Native Hawaiian organizations and should not be construed to establish a precedent with respect to any other individual, organization or foreign government.

(Pub. L. 101–601, §12, Nov. 16, 1990, 104 Stat. 3058.)

**§3011. Regulations**

The Secretary shall promulgate regulations to carry out this chapter within 12 months of November 16, 1990.

(Pub. L. 101–601, §13, Nov. 16, 1990, 104 Stat. 3058.)

**§3012. Authorization of appropriations**

There is authorized to be appropriated such sums as may be necessary to carry out this chapter.

(Pub. L. 101–601, §14, Nov. 16, 1990, 104 Stat. 3058.)

**§3013. Enforcement**

The United States district courts shall have jurisdiction over any action brought by any person alleging a violation of this chapter and shall have the authority to issue such orders as may be necessary to enforce the provisions of this chapter.

(Pub. L. 101–601, §15, Nov. 16, 1990, 104 Stat. 3058.)

## **IX. NATIONAL ENVIRONMENTAL POLICY**

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(as of February 2010)

42 U.S.C. Ch. 55: NATIONAL ENVIRONMENTAL POLICY  
From Title 42—THE PUBLIC HEALTH AND WELFARE

### **CHAPTER 55—NATIONAL ENVIRONMENTAL POLICY**

Sec.

4321. Congressional declaration of purpose.

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#### **§4321. Congressional declaration of purpose**

The purposes of this chapter are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

(Pub. L. 91-190, §2, Jan. 1, 1970, 83 Stat. 852.)

#### **Short Title**

Section 1 Pub. L. 91–190 provided: “That this Act [enacting this chapter] may be cited as the ‘National Environmental Policy Act of 1969’.”

### **Transfer of Functions**

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under this chapter, and enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

### **Emergency Preparedness Functions**

For assignment of certain emergency preparedness functions to Administrator of Environmental Protection Agency, see Parts 1, 2, and 16 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of this title.

### **Modification or Replacement of Executive Order No. 13423**

Pub. L. 111–117, div. C, title VII, §742(b), Dec. 16, 2009, 123 Stat. 3216, provided that: “Hereafter, the President may modify or replace Executive Order No. 13423 [set out as a note under this section] if the President determines that a revised or new executive order will achieve equal or better environmental or energy efficiency results.”

Pub. L. 111–8, div. D, title VII, §748, Mar. 11, 2009, 123 Stat. 693, which provided that Ex. Ord. No. 13423 (set out as a note under this section) would remain in effect on and after Mar. 11, 2009, except as otherwise provided by law after Mar. 11, 2009, was repealed by Pub. L. 111–117, div. C, title VII, §742(a), Dec. 16, 2009, 123 Stat. 3216.

### **Necessity of Military Low-Level Flight Training To Protect National Security and Enhance Military Readiness**

Pub. L. 106–398, §1 [[div. A], title III, §317], Oct. 30, 2000, 114 Stat. 1654, 1654A–57, provided that: “Nothing in the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or the regulations implementing such law shall require the Secretary of Defense or the Secretary of a military department to prepare a programmatic, nationwide environmental impact statement for low-level flight training as a precondition to the use by the Armed Forces of an airspace for the performance of low-level training flights.”

### **Pollution Prosecution**

Pub. L. 101–593, title II, Nov. 16, 1990, 104 Stat. 2962, provided that:

#### **§201. SHORT TITLE.**

“This title may be cited as the ‘Pollution Prosecution Act of 1990’.

#### **§202. EPA OFFICE OF CRIMINAL INVESTIGATION.**

“(a) The Administrator of the Environmental Protection Agency (hereinafter referred to as the ‘Administrator’) shall increase the number of criminal investigators assigned to the Office of Criminal Investigations by such numbers as may be necessary to assure that the number of criminal investigators assigned to the office—

“(1) for the period October 1, 1991, through September 30, 1992, is not less than 72;

“(2) for the period October 1, 1992, through September 30, 1993, is not less than 110;

“(3) for the period October 1, 1993, through September 30, 1994, is not less than 123;

“(4) for the period October 1, 1994, through September 30, 1995, is not less than 160;

“(5) beginning October 1, 1995, is not less than 200.

“(b) For fiscal year 1991 and in each of the following 4 fiscal years, the Administrator shall, during each such fiscal year, provide increasing numbers of additional support staff to the Office of Criminal Investigations.

“(c) The head of the Office of Criminal Investigations shall be a position in the competitive service as defined in 2102 of title 5 U.S.C. or a career reserve [reserved] position as defined in 3132(A) [3132(a)] of title 5 U.S.C. and the head of such office shall report directly, without intervening review or approval, to the Assistant Administrator for Enforcement.

#### **§203. CIVIL INVESTIGATORS.**



“The Administrator, as soon as practicable following the date of the enactment of this Act [Nov. 16, 1990], but no later than September 30, 1991, shall increase by fifty the number of civil investigators assigned to assist the Office of Enforcement in developing and prosecuting civil and administrative actions and carrying out its other functions.

**§204. NATIONAL TRAINING INSTITUTE.**

“The Administrator shall, as soon as practicable but no later than September 30, 1991 establish within the Office of Enforcement the National Enforcement Training Institute. It shall be the function of the Institute, among others, to train Federal, State, and local lawyers, inspectors, civil and criminal investigators, and technical experts in the enforcement of the Nation's environmental laws.

**§205. AUTHORIZATION.**

“For the purposes of carrying out the provisions of this Act [probably should be “this title”], there is authorized to be appropriated to the Environmental Protection Agency \$13,000,000 for fiscal year 1991, \$18,000,000 for fiscal year 1992, \$20,000,000 for fiscal year 1993, \$26,000,000 for fiscal year 1994, and \$33,000,000 for fiscal year 1995.”

**REORGANIZATION PLAN NO. 3 OF 1970**

**Eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, as amended Pub. L. 98-80, §2(a)(2), (b)(2), (c)(2)(C), Aug. 23, 1983, 97 Stat. 485, 486**

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, July 9, 1970, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

**ENVIRONMENTAL PROTECTION AGENCY**

**Section 1. Establishment of Agency**

(a) There is hereby established the Environmental Protection Agency, hereinafter referred to as the “Agency.”

(b) There shall be at the head of the Agency the Administrator of the Environmental Protection Agency, hereinafter referred to as the “Administrator.” The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(c) There shall be in the Agency a Deputy Administrator of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions as the

Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) There shall be in the Agency not to exceed five Assistant Administrators of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Administrator shall perform such functions as the Administrator shall from time to time assign or delegate. [As amended Pub. L. 98-80, §2(a)(2), (b)(2), (c)(2)(C), Aug. 23, 1983, 97 Stat. 485, 486.]

## **Sec. 2. Transfers to Environmental Protection Agency**

(a) There are hereby transferred to the Administrator:

(1) All functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered through the Federal Water Quality Administration, all functions which were transferred to the Secretary of the Interior by Reorganization Plan No. 2 of 1966 (80 Stat. 1608), and all functions vested in the Secretary of the Interior or the Department of the Interior by the Federal Water Pollution Control Act or by provisions of law amendatory or supplementary thereof [see 33 U.S.C. 1251 et seq.].

(2)(i) The functions vested in the Secretary of the Interior by the Act of August 1, 1958, 72 Stat. 479, 16 U.S.C. 742d-1 (being an Act relating to studies on the effects of insecticides, herbicides, fungicides, and pesticides upon the fish and wildlife resources of the United States), and (ii) the functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered by the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries at Gulf Breeze, Florida.

(3) The functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the following components thereof:

(i) The National Air Pollution Control Administration,

(ii) The Environmental Control Administration:

(A) Bureau of Solid Waste Management,

(B) Bureau of Water Hygiene,

(C) Bureau of Radiological Health,

except that functions carried out by the following components of the Environmental Control Administration of the Environmental Health Service are not transferred: (i) Bureau of Community Environmental Management, (ii) Bureau of Occupational Safety and Health, and (iii) Bureau of Radiological Health, insofar as the functions carried out by the latter Bureau pertain to (A) regulation of radiation from consumer products, including electronic product radiation, (B) radiation as used in the healing arts, (C) occupational exposures to radiation, and (D) research, technical assistance, and training related to clauses (A), (B), and (C).

(4) The functions vested in the Secretary of Health, Education, and Welfare of establishing tolerances for pesticide chemicals under the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. 346, 346a, and 348, together with authority, in connection with the functions transferred, (i) to monitor compliance with the tolerances and the effectiveness of surveillance and enforcement, and (ii) to provide technical assistance to the States and conduct research under the Federal Food, Drug, and Cosmetic Act, as amended [21 U.S.C. 301 et seq.], and the Public Health Service Act, as amended [42 U.S.C. 201 et seq.].

(5) So much of the functions of the Council on Environmental Quality under section 204(5) of the National Environmental Policy Act of 1969 (Public Law 91–190, approved January 1, 1970, 83 Stat. 855) [42 U.S.C. 4344(5)], as pertains to ecological systems.

(6) The functions of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], administered through its Division of Radiation Protection Standards, to the extent that such functions of the Commission consist of establishing generally applicable environmental standards for the protection of the general environment from radioactive material. As used herein, standards mean limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radio-active material.

(7) All functions of the Federal Radiation Council (42 U.S.C. 2021(h)).

(8)(i) The functions of the Secretary of Agriculture and the Department of Agriculture under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135–135k) [7 U.S.C. 136 et seq.], (ii) the functions of the Secretary of Agriculture and the Department of Agriculture under section 408(l) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346a(l)), and (iii) the functions vested by law in the Secretary of Agriculture and the Department of Agriculture which are administered through the Environmental Quality Branch of the Plant Protection Division of the Agricultural Research Service.

(9) So much of the functions of the transferor officers and agencies referred to in or affected by the foregoing provisions of this section as is incidental to or necessary for the

performance by or under the Administrator of the functions transferred by those provisions or relates primarily to those functions. The transfers to the Administrator made by this section shall be deemed to include the transfer of (1) authority, provided by law, to prescribe regulations relating primarily to the transferred functions, and (2) the functions vested in the Secretary of the Interior and the Secretary of Health, Education, and Welfare by section 169(d)(1)(B) and (3) of the Internal Revenue Code of 1954 (as enacted by section 704 of the Tax Reform Act of 1969, 83 Stat. 668); but shall be deemed to exclude the transfer of the functions of the Bureau of Reclamation under section 3(b)(1) of the Water Pollution Control Act (33 U.S.C. [former] 466a(b)(1)).

(b) There are hereby transferred to the Agency:

(1) From the Department of the Interior, (i) the Water Pollution Control Advisory Board (33 U.S.C. [former] 466f) [see 33 U.S.C. 1363], together with its functions, and (ii) the hearing boards provided for in sections 10(c)(4) and 10(f) of the Federal Water Pollution Control Act, as amended (33 U.S.C. [former] 466g(c)(4); 466g(f)). The functions of the Secretary of the Interior with respect to being or designating the Chairman of the Water Pollution Control Advisory Board are hereby transferred to the Administrator.

(2) From the Department of Health, Education, and Welfare, the Air Quality Advisory Board (42 U.S.C. 1857e) [42 U.S.C. 7417], together with its functions. The functions of the Secretary of Health, Education, and Welfare with respect to being a member and the Chairman of that Board are hereby transferred to the Administrator.

### **Sec. 3. Performance of Transferred Functions**

The Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any other officer, or by any organizational entity or employee, of the Agency.

### **Sec. 4. Incidental Transfers**

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Administrator or the Agency by this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Agency at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

**Sec. 5. Interim Officers**

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator, authorize any such person to act as Assistant Administrator, and authorize any such person to act as the head of any principal constituent organizational entity of the Administration.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

**Sec. 6. Abolitions**

(a) Subject to the provisions of this reorganization plan, the following, exclusive of any functions, are hereby abolished:

(1) The Federal Water Quality Administration in the Department of the Interior (33 U.S.C. [former] 466–1).

(2) The Federal Radiation Council (73 Stat. 690; 42 U.S.C. 2021(h)).

(b) Such provisions as may be necessary with respect to terminating any outstanding affairs shall be made by the Secretary of the Interior in the case of the Federal Water Quality Administration and by the Administrator of General Services in the case of the Federal Radiation Council.

**Sec. 7. Effective Date**

The provisions of this reorganization plan shall take effect sixty days after the date they would take effect under 5 U.S.C. 906(a) in the absence of this section.

**Message of the President**

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1970, prepared in accordance with chapter 9 of title 5 of the United States Code and providing for an Environmental Protection Agency. My reasons for transmitting this plan are stated in a more extended accompanying message.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1970 is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in section 1 of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the executive branch who have similar responsibilities.

Section 907 of title 5 of the United States Code will operate to preserve administrative proceedings, including any public hearing proceedings, related to the transferred functions, which are pending immediately prior to the taking effect of the reorganization plan.

The reorganization plan should result in more efficient operation of the Government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action.

Richard Nixon.

The White House, July 9, 1970.

### **Message of the President**

To the Congress of the United States:

As concern with the condition of our physical environment has intensified, it has become increasingly clear that we need to know more about the total environment—land, water and air. It also has become increasingly clear that only by reorganizing our Federal efforts can we develop that knowledge, and effectively ensure the protection, development and enhancement of the total environment itself.

The Government's environmentally-related activities have grown up piecemeal over the years. The time has come to organize them rationally and systematically. As a major step

in this direction, I am transmitting today two reorganization plans: one to establish an Environmental Protection Agency, and one to establish, within the Department of Commerce, a National Oceanic and Atmospheric Administration.

### **ENVIRONMENTAL PROTECTION AGENCY (EPA)**

Our national government today is not structured to make a coordinated attack on the pollutants which debase the air we breathe, the water we drink, and the land that grows our food. Indeed, the present governmental structure for dealing with environmental pollution often defies effective and concerted action.

Despite its complexity, for pollution control purposes the environment must be perceived as a single, interrelated system. Present assignments of departmental responsibilities do not reflect this interrelatedness.

Many agency missions, for example, are designed primarily along media lines—air, water, and land. Yet the sources of air, water, and land pollution are interrelated and often interchangeable. A single source may pollute the air with smoke and chemicals, the land with solid wastes, and a river or lake with chemical and other wastes. Control of the air pollution may produce more solid wastes, which then pollute the land or water. Control of the water-polluting effluent may convert it into solid wastes, which must be disposed of on land.

Similarly, some pollutants—chemicals, radiation, pesticides—appear in all media. Successful control of them at present requires the coordinated efforts of a variety of separate agencies and departments. The results are not always successful.

A far more effective approach to pollution control would:

- identify pollutants.
- trace them through the entire ecological chain, observing and recording changes in form as they occur.
- Determine the total exposure of man his environment.
- Examine interactions among forms of pollution.
- Identify where in the ecological chain interdiction would be most appropriate.

In organizational terms, this requires pulling together into one agency a variety of research, monitoring, standard-setting and enforcement activities now scattered through several departments and agencies. It also requires that the new agency include sufficient support elements—in research and in aids to State and local anti-pollution programs, for

example—to give it the needed strength and potential for carrying out its mission. The new agency would also, of course, draw upon the results of research conducted by other agencies.

### **COMPONENTS OF THE EPA**

Under the terms of Reorganization Plan No. 3, the following would be moved to the new Environmental Protection Agency:

—The functions carried out by the Federal Water Quality Administration (from the Department of the Interior).

—Functions with respect to pesticides studies now vested in the Department of the Interior.

—The functions carried out by the National Air Pollution Control Administration (from the Department of Health, Education, and Welfare).

—The functions carried out by the Bureau of Solid Waste Management and the Bureau of Water Hygiene, and portions of the functions carried out by the Bureau of Radiological Health of the Environmental Control Administration (from the Department of Health, Education, and Welfare).

—Certain functions with respect to pesticides carried out by the Food and Drug Administration (from the Department of Health, Education, and Welfare).

—Authority to perform studies relating to ecological systems now vested in the Council on Environmental Quality.

—Certain functions respecting radiation criteria and standards now vested in the Atomic Energy Commission and the Federal Radiation Council.

—Functions respecting pesticides registration and related activities now carried out by the Agricultural Research Service (from the Department of Agriculture).

With its broad mandate, EPA would also develop competence in areas of environmental protection that have not previously been given enough attention, such, for example, as the problem of noise, and it would provide an organization to which new programs in these areas could be added.

In brief, these are the principal functions to be transferred:

**Federal Water Quality Administration.**—Charged with the control of pollutants which impair water quality, it is broadly concerned with the impact of degraded water quality.



It performs a wide variety of functions, including research, standard-setting and enforcement, and provides construction grants and technical assistance.

Certain pesticides research authority from the Department of the Interior.—Authority for research on the effects of pesticides on fish and wildlife would be provided to the EPA through transfer of the specialized research authority of the pesticides act enacted in 1958. Interior would retain its responsibility to do research on all factors affecting fish and wildlife. Under this provision, only one laboratory would be transferred to the EPA—the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries. The EPA would work closely with the fish and wildlife laboratories remaining with the Bureau of Sport Fisheries and Wildlife.

National Air Pollution Control Administration.—As the principal Federal agency concerned with air pollution, it conducts research on the effects of air pollution, operates a monitoring network, and promulgates criteria which serve as the basis for setting air quality standards. Its regulatory functions are similar to those of the Federal Water Quality Administration. NAPCA is responsible for administering the Clean Air Act, which involves designating air quality regions, approving State standards and providing financial and technical assistance to State Control agencies to enable them to comply with the Act's provisions. It also sets and enforces Federal automotive emission standards.

Elements of the Environmental Control Administration.—ECA is the focal point within HEW for evaluation and control of a broad range of environmental health problems, including water quality, solid wastes, and radiation. Programs in the ECA involve research, development of criteria and standards, and the administration of planning and demonstration grants. From the ECA, the activities of the Bureaus of Water Hygiene and Solid Waste Management and portions of the activities of the Bureau of Radiological Health would be transferred. Other functions of the ECA including those related to the regulation of radiation from consumer products and occupational safety and health would remain in HEW.

Pesticides research and standard-setting programs of the Food and Drug Administration.—FDA's pesticides program consists of setting and enforcing standards which limit pesticide residues in food. EPA would have the authority to set pesticide standards and to monitor compliance with them, as well as to conduct related research. However, as an integral part of its food protection activities, FDA would retain its authority to remove from the market food with excess pesticide residues.

General ecological research from the Council on Environmental Quality.—This authority to perform studies and research relating to ecological systems would be in addition to EPA's other specific research authorities, and it would help EPA to measure the impact of pollutants. The Council on Environmental Quality would retain its authority to conduct studies and research relating to environmental quality.

Environmental radiation standards programs.—The Atomic Energy Commission is now responsible for establishing environmental radiation standards and emission limits for radioactivity. Those standards have been based largely on broad guidelines recommended by the Federal Radiation Council. The Atomic Energy Commission's authority to set standards for the protection of the general environment from radioactive material would be transferred to the Environmental Protection Agency. The functions of the Federal Radiation Council would also be transferred. AEC would retain responsibility for the implementation and enforcement of radiation standards through its licensing authority.

Pesticides registration program of the Agricultural Research Service.—The Department of Agriculture is currently responsible for several distinct functions related to pesticides use. It conducts research on the efficacy of various pesticides as related to other pest control methods and on the effects of pesticides on non-target plants, livestock, and poultry. It registers pesticides, monitors their persistence and carries out an educational program on pesticide use through the extension service. It conducts extensive pest control programs which utilize pesticides.

By transferring the Department of Agriculture's pesticides registration and monitoring function to the EPA and merging it with the pesticides programs being transferred from HEW and Interior, the new agency would be given a broad capability for control over the introduction of pesticides into the environment.

The Department of Agriculture would continue to conduct research on the effectiveness of pesticides. The Department would furnish this information to the EPA, which would have the responsibility for actually licensing pesticides for use after considering environmental and health effects. Thus the new agency would be able to make use of the expertise of the Department.

### **ADVANTAGES OF REORGANIZATION**

This reorganization would permit response to environmental problems in a manner beyond the previous capability of our pollution control programs. The EPA would have the capacity to do research on important pollutants irrespective of the media in which they appear, and on the impact of these pollutants on the total environment. Both by itself and together with other agencies, the EPA would monitor the condition of the environment—biological as well as physical. With these data, the EPA would be able to establish quantitative “environmental baselines”—critical if we are to measure adequately the success or failure of our pollution abatement efforts.

As no disjointed array of separate programs can, the EPA would be able—in concert with the States—to set and enforce standards for air and water quality and for individual pollutants. This consolidation of pollution control authorities would help assure that we do not create new environmental problems in the process of controlling existing ones.

Industries seeking to minimize the adverse impact of their activities on the environment would be assured of consistent standards covering the full range of their waste disposal problems. As the States develop and expand their own pollution control programs, they would be able to look to one agency to support their efforts with financial and technical assistance and training.

In proposing that the Environmental Protection Agency be set up as a separate new agency, I am making an exception to one of my own principles: that, as a matter of effective and orderly administration, additional new independent agencies normally should not be created. In this case, however, the arguments against placing environmental protection activities under the jurisdiction of one or another of the existing departments and agencies are compelling.

In the first place, almost every part of government is concerned with the environment in some way, and affects it in some way. Yet each department also has its own primary mission—such as resource development, transportation, health, defense, urban growth or agriculture—which necessarily affects its own view of environmental questions.

In the second place, if the critical standard-setting functions were centralized within any one existing department, it would require that department constantly to make decisions affecting other departments—in which, whether fairly or unfairly, its own objectivity as an impartial arbiter could be called into question.

Because environmental protection cuts across so many jurisdictions, and because arresting environmental deterioration is of great importance to the quality of life in our country and the world, I believe that in this case a strong, independent agency is needed. That agency would, of course, work closely with and draw upon the expertise and assistance of other agencies having experience in the environmental area.

## **ROLES AND FUNCTIONS OF EPA**

The principal roles and functions of the EPA would include:

—The establishment and enforcement of environmental protection standards consistent with national environmental goals.

—The conduct of research on the adverse effects of pollution and on methods and equipment for controlling it, the gathering of information on pollution, and the use of this information in strengthening environmental protection programs and recommending policy changes.

—Assisting others, through grants, technical assistance and other means in arresting pollution of the environment.

—Assisting the Council on Environmental Quality in developing and recommending to the President new policies for the protection of the environment.

One natural question concerns the relationship between the EPA and the Council on Environmental Quality, recently established by Act of Congress.

It is my intention and expectation that the two will work in close harmony, reinforcing each other's mission. Essentially, the Council is a top-level advisory group (which might be compared with the Council of Economic Advisers), while the EPA would be an operating, "line" organization. The Council will continue to be a part of the Executive Office of the President and will perform its overall coordinating and advisory roles with respect to all Federal programs related to environmental quality.

The Council, then, is concerned with all aspects of environmental quality—wildlife preservation, parklands, land use, and population growth, as well as pollution. The EPA would be charged with protecting the environment by abating pollution. In short, the Council focuses on what our broad policies in the environment field should be; the EPA would focus on setting and enforcing pollution control standards. The two are not competing, but complementary—and taken together, they should give us, for the first time, the means to mount an effectively coordinated campaign against environmental degradation in all of its many forms.

#### **NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

The oceans and the atmosphere are interacting parts of the total environmental system upon which we depend not only for the quality of our lives, but for life itself.

We face immediate and compelling needs for better protection of life and property from natural hazards, and for a better understanding of the total environment—and understanding which will enable us more effectively to monitor and predict its actions, and ultimately, perhaps to exercise some degree of control over them.

We also face a compelling need for exploration and development leading to the intelligent use of our marine resources. The global oceans, which constitute nearly three-fourths of the surface of our planet, are today the least-understood, the least-developed, and the least-protected part of our earth. Food from the oceans will increasingly be a key element in the world's fight against hunger. The mineral resources of the ocean beds and of the oceans themselves, are being increasingly tapped to meet the growing world demand. We must understand the nature of these resources, and assure their development without either contaminating the marine environment or upsetting its balance.

Establishment of the National Oceanic and Atmospheric Administration—NOAA—within the Department of Commerce would enable us to approach these tasks in a

coordinated way. By employing a unified approach to the problems of the oceans and atmosphere, we can increase our knowledge and expand our opportunities not only in those areas, but in the third major component of our environment, the solid earth, as well.

Scattered through various Federal departments and agencies, we already have the scientific, technological, and administrative resources to make an effective, unified approach possible. What we need is to bring them together. Establishment of NOAA would do so.

By far the largest of the components being merged would be the Commerce Department's Environmental Science Services Administration (ESSA), with some 10,000 employees (70 percent of NOAA's total personnel strength) and estimated Fiscal 1970 expenditures of almost \$200 million. Placing NOAA within the Department of Commerce therefore entails the least dislocation, while also placing it within a Department which has traditionally been a center for service activities in the scientific and technological area.

#### **COMPONENTS OF NOAA**

Under terms of Reorganization Plan No. 4, the programs of the following organizations would be moved into NOAA:

—The Environmental Science Services Administration (from within the Department of Commerce).

—Elements of the Bureau of Commercial Fisheries (from the Department of the Interior).

—The marine sport fish program of the Bureau of Sport Fisheries and Wildlife (from the Department of the Interior).

—The Marine Minerals Technology Center of the Bureau of Mines (from the Department of the Interior).

—The Office of Sea Grant Programs (from the National Science Foundation).

—Elements of the United States Lake Survey (from the Department of the Army).

In addition, by executive action, the programs of the following organizations would be transferred to NOAA:

—The National Oceanographic Data Center (from the Department of the Navy).

—The National Oceanographic Instrumentation Center (from the Department of the Navy).

—The National Data Buoy Project (from the Department of Transportation).

In brief, these are the principal functions of the programs and agencies to be combined:

### **THE ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION**

(ESSA) comprises the following components:

—The Weather Bureau (weather, marine, river and flood forecasting and warning).

—The Coast and Geodetic Survey (earth and marine description, mapping and charting).

—The Environmental Data Service (storage and retrieval of environmental data).

—The National Environmental Satellite Center (observation of the global environment from earth-orbiting satellites).

—The ESSA Research Laboratories (research on physical environmental problems).

ESSA's activities include observing and predicting the state of the oceans, the state of the lower and upper atmosphere, and the size and shape of the earth. It maintains the nation's warning systems for such natural hazards as hurricanes, tornadoes, floods, earthquakes and seismic sea waves. It provides information for national defense, agriculture, transportation and industry.

ESSA monitors atmospheric, oceanic and geophysical phenomena on a global basis, through an unparalleled complex of air, ocean, earth and space facilities. It also prepares aeronautical and marine maps and charts.

Bureau of Commercial Fisheries and marine sport fish activities.—Those fishery activities of the Department of the Interior's U.S. Fish and Wildlife Service which are ocean related and those which are directed toward commercial fishing would be transferred. The Fish and Wildlife Service's Bureau of Commercial Fisheries has the dual function of strengthening the fishing industry and promoting conservation of fishery stocks. It conducts research on important marine species and on fundamental oceanography, and operates a fleet of oceanographic vessels and a number of laboratories. Most of its activities would be transferred. From the Fish and Wildlife Service's Bureau of Sport Fisheries and Wildlife, the marine sport fishing program would be transferred. This involves five supporting laboratories and three ships engaged in activities to enhance marine sport fishing opportunities.

The Marine Minerals Technology Center is concerned with the development of marine mining technology.

Office of Sea Grant Programs.—The Sea Grant Program was authorized in 1966 to permit the Federal Government to assist the academic and industrial communities in developing marine resources and technology. It aims at strengthening education and training of marine specialists, supporting applied research in the recovery and use of marine resources, and developing extension and advisory services. The Office carries out these objectives by making grants to selected academic institutions.

The U.S. Lake Survey has two primary missions. It prepares and publishes navigation charts of the Great Lakes and tributary waters and conducts research on a variety of hydraulic and hydrologic phenomena of the Great Lakes' waters. Its activities are very similar to those conducted along the Atlantic and Pacific coasts by ESSA's Coast and Geodetic Survey.

The National Oceanographic Data Center is responsible for the collection and dissemination of oceanographic data accumulated by all Federal agencies.

The National Oceanographic Instrumentation Center provides a central Federal service for the calibration and testing of oceanographic instruments.

The National Data Buoy Development Project was established to determine the feasibility of deploying a system of automatic ocean buoys to obtain oceanic and atmospheric data.

## **ROLE OF NOAA**

Drawing these activities together into a single agency would make possible a balanced Federal program to improve our understanding of the resources of the sea, and permit their development and use while guarding against the sort of thoughtless exploitation that in the past laid waste to so many of our precious natural assets. It would make possible a consolidated program for achieving a more comprehensive understanding of oceanic and atmospheric phenomena, which so greatly affect our lives and activities. It would facilitate the cooperation between public and private interests that can best serve the interests of all.

I expect that NOAA would exercise leadership in developing a national oceanic and atmospheric program of research and development. It would coordinate its own scientific and technical resources with the technical and operational capabilities of other government agencies and private institutions. As important, NOAA would continue to provide those services to other agencies of government, industry and private individuals which have become essential to the efficient operation of our transportation systems, our agriculture and our national security. I expect it to maintain continuing and close liaison

with the new Environmental Protection Agency and the Council on Environmental Quality as part of an effort to ensure that environmental questions are dealt with in their totality and they benefit from the full range of the government's technical and human resources.

Authorities who have studied this matter, including the Commission on Marine Science, Engineering and Resources, strongly recommended the creation of a National Advisory Committee for the Oceans. I agree. Consequently, I will request, upon approval of the plan, that the Secretary of Commerce establish a National Advisory Committee for the Oceans and the Atmosphere to advise him on the progress of governmental and private programs in achieving the nation's oceanic and atmospheric objectives.

### **AN ON-GOING PROCESS**

The reorganizations which I am here proposing afford both the Congress and the Executive Branch an opportunity to re-evaluate the adequacy of existing program authorities involved in these consolidations. As these two new organizations come into being, we may well find that supplementary legislation to perfect their authorities will be necessary. I look forward to working with the Congress in this task.

In formulating these reorganization plans, I have been greatly aided by the work of the President's Advisory Council on Executive Organization (the Ash Council), the Commission on Marine Science, Engineering and Resources (the Stratton Commission, appointed by President Johnson), my special task force on oceanography headed by Dr. James Wakelin, and by the information developed during both House and Senate hearings on proposed NOAA legislation.

Many of those who have advised me have proposed additional reorganizations, and it may well be that in the future I shall recommend further changes. For the present, however, I think the two reorganizations transmitted today represent a sound and significant beginning. I also think that in practical terms, in this sensitive and rapidly developing area, it is better to proceed a step at a time—and thus to be sure that we are not caught up in a form of organizational indigestion from trying to rearrange too much at once. As we see how these changes work out, we will gain a better understanding of what further changes—in addition to these—might be desirable.

Ultimately, our objective should be to insure that the nation's environmental and resource protection activities are so organized as to maximize both the effective coordination of all and the effective functioning of each.

The Congress, the Administration and the public all share a profound commitment to the rescue of our natural environment, and the preservation of the Earth as a place both habitable by and hospitable to man. With its acceptance of these reorganization plans, the Congress will help us fulfill that commitment.



Richard Nixon.

The White House, July 9, 1970.

**Ex. Ord. No. 11472. Cabinet Committee on the Environment and Citizens' Advisory Committee on Environmental Quality**

Ex. Ord. No. 11472, May 29, 1969, 34 F.R. 8693, as amended by Ex. Ord. No. 11514, Mar. 5, 1970, 35 F.R. 4247; Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, provided:

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

**Part I—Cabinet Committee on the Environment**

Section 101. Establishment of the Cabinet Committee. (a) There is hereby established the Cabinet Committee on the Environment (hereinafter referred to as “the Cabinet Committee”).

(b) The President of the United States shall preside over meetings of the Cabinet Committee. The Vice President shall preside in the absence of the President.

(c) The Cabinet Committee shall be composed of the following members:

The Vice President of the United States

Secretary of Agriculture

Secretary of Commerce

Secretary of Health, Education, and Welfare

Secretary of Housing and Urban Development

Secretary of the Interior

Secretary of Transportation

and such other heads of departments and agencies and others as the President may from time to time direct.

(d) Each member of the Cabinet Committee may designate an alternate, who shall serve as a member of the Cabinet Committee whenever the regular member is unable to attend any meeting of the Cabinet Committee.

(e) When matters which affect the interest of Federal agencies the heads of which are not members of the Cabinet Committee are to be considered by the Cabinet Committee, the President or his representative may invite such agency heads or their alternates to participate in the deliberations of the Cabinet Committee.

(f) The Director of the Bureau of the Budget [now the Director of the Office of Management and Budget], the Director of the Office of Science and Technology, the Chairman of the Council of Economic Advisers, and the Executive Secretary of the Council for Urban Affairs or their representatives may participate in the deliberations of the Cabinet Committee on the Environment as observers.

(g) The Chairman of the Council on Environmental Quality (established by Public Law 91-190) [this chapter] shall assist the President in directing the affairs of the Cabinet Committee.

Sec. 102. Functions of the Cabinet Committee. (a) The Cabinet Committee shall advise and assist the President with respect to environmental quality matters and shall perform such other related duties as the President may from time to time prescribe. In addition thereto, the Cabinet Committee is directed to:

(1) Recommend measures to ensure that Federal policies and programs, including those for development and conservation of natural resources, take adequate account of environmental effects.

(2) Review the adequacy of existing systems for monitoring and predicting environmental changes so as to achieve effective coverage and efficient use of facilities and other resources.

(3) Foster cooperation between the Federal Government, State and local governments, and private organizations in environmental programs.

(4) Seek advancement of scientific knowledge of changes in the environment and encourage the development of technology to prevent or minimize adverse effects that endanger man's health and well-being.

(5) Stimulate public and private participation in programs and activities to protect against pollution of the Nation's air, water, and land and its living resources.

(6) Encourage timely public disclosure by all levels of government and by private parties of plans that would affect the quality of environment.

(7) Assure assessment of new and changing technologies for their potential effects on the environment.

(8) Facilitate coordination among departments and agencies of the Federal Government in protecting and improving the environment.

(b) The Cabinet Committee shall review plans and actions of Federal agencies affecting outdoor recreation and natural beauty. The Cabinet Committee may conduct studies and make recommendations to the President on matters of policy in the fields of outdoor recreation and natural beauty. In carrying out the foregoing provisions of this subsection, the Cabinet Committee shall, as far as may be practical, advise Federal agencies with respect to the effect of their respective plans and programs on recreation and natural beauty, and may suggest to such agencies ways to accomplish the purposes of this order. For the purposes of this order, plans and programs may include, but are not limited to, those for or affecting: (1) Development, restoration, and preservation of the beauty of the countryside, urban and suburban areas, water resources, wild rivers, scenic roads, parkways and highways, (2) the protection and appropriate management of scenic or primitive areas, natural wonders, historic sites, and recreation areas, (3) the management of Federal land and water resources, including fish and wildlife, to enhance natural beauty and recreational opportunities consistent with other essential uses, (4) cooperation with the States and their local subdivisions and private organizations and individuals in areas of mutual interest, (5) interstate arrangements, including Federal participation where authorized and necessary, and (6) leadership in a nationwide recreation and beautification effort.

Sec. 103. Coordination. The Secretary of the Interior may make available to the Cabinet Committee for coordination of outdoor recreation the authorities and resources available to him under the Act of May 28, 1963, 77 Stat. 49 [16 U.S.C. 460l et seq.], to the extent permitted by law, he may make such authorities and resources available to the Cabinet Committee also for promoting such coordination of other matters assigned to the Cabinet Committee by this order.

Sec. 104. Assistance for the Cabinet Committee. In compliance with provisions of applicable law, and as necessary to serve the purposes of this order, (1) the Council on Environmental Quality (established by Public Law 91-190) [this chapter] shall provide or arrange for necessary administrative and staff services, support, and facilities for the Cabinet Committee, and (2) each department and agency which has membership on the Cabinet Committee under Section 101(c) hereof shall furnish the Cabinet Committee such information and other assistance as may be available.

## **Part II—Citizens' Advisory Committee on Environmental Quality**

[Revoked. Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839.]

### **Part III—General Provisions**

Sec. 301. Construction. Nothing in this order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

Sec. 302. Prior bodies and orders. The President's Council on Recreation and Natural Beauty and the Citizens' Advisory Committee on Recreation and Natural Beauty are hereby terminated and the following are revoked:

- (1) Executive Order No. 11278 of May 4, 1966.
- (2) Executive Order No. 11359A of June 29, 1967.
- (3) Executive Order No. 11402 of March 29, 1968.

#### **Termination of Cabinet Committee on the Environment**

The Cabinet Committee on the Environment was terminated and its functions transferred to the Domestic Council, see section 2(b) of Ex. Ord. No. 11541, eff. July 1, 1970, 35 F.R. 10737, set out as a note under section 501 of Title 31, Money and Finance.

The Domestic Council was abolished by Reorg. Plan No. 1 of 1977, §3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President. Section 5D of Reorg. Plan No. 1 of 1977 transferred all functions vested in the Domestic Council to the President with power to delegate the performance of such transferred functions within the Executive Office of the President.

#### **Termination of Citizens' Advisory Committee on Environmental Quality**

For provisions relating to termination of Citizens' Advisory Committee on Environmental Quality see Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

#### **Ex. Ord. No. 11514. Protection and Enhancement of Environmental Quality**

Ex. Ord. No. 11514, Mar. 5, 1970, 35 F.R. 4247, as amended by Ex. Ord. No. 11991, May 24, 1977, 42 F.R. 26967, provided:

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law No. 91-190, approved January 1, 1970) [this chapter], it is ordered as follows:

Section 1. Policy. The Federal Government shall provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life. Federal agencies shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals. The Council on Environmental Quality, through the Chairman, shall advise and assist the President in leading this national effort.

Sec. 2. Responsibilities of Federal agencies. Consonant with Title I of the National Environmental Policy Act of 1969 [42 U.S.C. 4331 et seq.], hereafter referred to as the "Act", the heads of Federal agencies shall:

(a) Monitor, evaluate, and control on a continuing basis their agencies' activities so as to protect and enhance the quality of the environment. Such activities shall include those directed to controlling pollution and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities. Heads of agencies shall consult with appropriate Federal, State and local agencies in carrying out their activities as they affect the quality of the environment.

(b) Develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action. Federal agencies shall also encourage State and local agencies to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment.

(c) Insure that information regarding existing or potential environmental problems and control methods developed as part of research, development, demonstration, test, or evaluation activities is made available to Federal agencies, States, counties, municipalities, institutions, and other entities, as appropriate.

(d) Review their agencies' statutory authority, administrative regulations, policies, and procedures, including those relating to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the purposes and provisions of the Act. A report on this review and the corrective actions taken or planned, including such measures to be proposed to the President as may be necessary to bring their authority and policies into

conformance with the intent, purposes, and procedures of the Act, shall be provided to the Council on Environmental Quality not later than September 1, 1970.

(e) Engage in exchange of data and research results, and cooperate with agencies of other governments to foster the purposes of the Act.

(f) Proceed, in coordination with other agencies, with actions required by section 102 of the Act [42 U.S.C. 4332].

(g) In carrying out their responsibilities under the Act and this Order, comply with the regulations issued by the Council except where such compliance would be inconsistent with statutory requirements.

Sec. 3. Responsibilities of Council on Environmental Quality. The Council on Environmental Quality shall:

(a) Evaluate existing and proposed policies and activities of the Federal Government directed to the control of pollution and the enhancement of the environment and to the accomplishment of other objectives which affect the quality of the environment. This shall include continuing review of procedures employed in the development and enforcement of Federal standards affecting environmental quality. Based upon such evaluations the Council shall, where appropriate, recommend to the President policies and programs to achieve more effective protection and enhancement of environmental quality and shall, where appropriate, seek resolution of significant environmental issues.

(b) Recommend to the President and to the agencies priorities among programs designed for the control of pollution and for enhancement of the environment.

(c) Determine the need for new policies and programs for dealing with environmental problems not being adequately addressed.

(d) Conduct, as it determines to be appropriate, public hearings or conferences on issues of environmental significance.

(e) Promote the development and use of indices and monitoring systems (1) to assess environmental conditions and trends, (2) to predict the environmental impact of proposed public and private actions, and (3) to determine the effectiveness of programs for protecting and enhancing environmental quality.

(f) Coordinate Federal programs related to environmental quality.

(g) Advise and assist the President and the agencies in achieving international cooperation for dealing with environmental problems, under the foreign policy guidance of the Secretary of State.

(h) Issue regulations to Federal agencies for the implementation of the procedural provisions of the Act (42 U.S.C. 4332(2)). Such regulations shall be developed after consultation with affected agencies and after such public hearings as may be appropriate. They will be designed to make the environmental impact statement process more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives. They will require impact statements to be concise, clear, and to the point, and supported by evidence that agencies have made the necessary environmental analyses. The Council shall include in its regulations procedures (1) for the early preparation of environmental impact statements, and (2) for the referral to the Council of conflicts between agencies concerning the implementation of the National Environmental Policy Act of 1969, as amended [this chapter], and Section 309 of the Clean Air Act, as amended [42 U.S.C. 7609], for the Council's recommendation as to their prompt resolution.

(i) Issue such other instructions to agencies, and request such reports and other information from them, as may be required to carry out the Council's responsibilities under the Act.

(j) Assist the President in preparing the annual Environmental Quality Report provided for in section 201 of the Act [42 U.S.C. 4341].

(k) Foster investigations, studies, surveys, research, and analyses relating to (i) ecological systems and environmental quality, (ii) the impact of new and changing technologies thereon, and (iii) means of preventing or reducing adverse effects from such technologies.

Sec. 4. Amendments of E.O. 11472. Executive Order No. 11472 of May 29, 1969, including the heading thereof, is hereby amended:

(1) By substituting for the term "the Environmental Quality Council", wherever it occurs, the following: "the Cabinet Committee on the Environment".

(2) By substituting for the term "the Council", wherever it occurs, the following: "the Cabinet Committee".

(3) By inserting in subsection (f) of section 101, after "Budget," the following: "the Director of the Office of Science and Technology,".

(4) By substituting for subsection (g) of section 101 the following:

"(g) The Chairman of the Council on Environmental Quality (established by Public Law 91-190) [this chapter] shall assist the President in directing the affairs of the Cabinet Committee."

(5) By deleting subsection (c) of section 102.

(6) By substituting for “the Office of Science and Technology”, in section 104, the following: “the Council on Environmental Quality (established by Public Law 91–190) [this chapter]”.

(7) By substituting for “(hereinafter referred to as the ‘Committee’)”, in section 201, the following: “(hereinafter referred to as the ‘Citizens’ Committee’)”.

(8) By substituting for the term “the Committee”, wherever it occurs, the following: “the Citizens’ Committee”.

**Ex. Ord. No. 11523. National Industrial Pollution Control Council**

Ex. Ord. No. 11523, eff. Apr. 9, 1970, 35 F.R. 5993, provided:

By virtue of the authority vested in me as President of the United States, and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law 91–190, approved January 1, 1970) [this chapter], it is ordered as follows:

Section 1. Establishment of the Council. (a) There is hereby established the National Industrial Pollution Control Council (hereinafter referred to as “the Industrial Council”) which shall be composed of a Chairman, a Vice-chairman, and other representatives of business and industry appointed by the Secretary of Commerce (hereinafter referred to as “the Secretary”).

(b) The Secretary, with the concurrence of the Chairman, shall appoint an Executive Director of the Industrial Council.

Sec. 2. Functions of the Industrial Council. The Industrial Council shall advise the President and the Chairman of the Council on Environmental Quality, through the Secretary, on programs of industry relating to the quality of the environment. In particular, the Industrial Council may—

(1) Survey and evaluate the plans and actions of industry in the field of environmental quality.

(2) Identify and examine problems of the effects on the environment of industrial practices and the needs of industry for improvements in the quality of the environment, and recommend solutions to those problems.

(3) Provide liaison among members of the business and industrial community on environmental quality matters.



(4) Encourage the business and industrial community to improve the quality of the environment.

(5) Advise on plans and actions of Federal, State, and local agencies involving environmental quality policies affecting industry which are referred to it by the Secretary, or by the Chairman of the Council on Environmental Quality through the Secretary.

Sec. 3. Subordinate Committees. The Industrial Council may establish, with the concurrence of the Secretary, such subordinate committees as it may deem appropriate to assist in the performance of its functions. Each subordinate committee shall be headed by a chairman appointed by the Chairman of the Industrial Council with the concurrence of the Secretary.

Sec. 4. Assistance for the Industrial Council. In compliance with applicable law, and as necessary to serve the purposes of this order, the Secretary shall provide or arrange for administrative and staff services, support, and facilities for the Industrial Council and any of its subordinate committees.

Sec. 5. Expenses. Members of the Industrial Council or any of its subordinate committees shall receive no compensation from the United States by reason of their services hereunder, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

Sec. 6. Regulations. The provisions of Executive Order No. 11007 of February 26, 1962 (3 CFR 573) [see 5 U.S.C. 901 note] prescribing regulations for the formation and use of advisory committees, are hereby made applicable to the Industrial Council and each of its subordinate committees. The Secretary may exercise the discretionary powers set forth in that order.

Sec. 7. Construction. Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency to the authority of any other Federal agency or of the Industrial Council or of any of its subordinate committees, or as abrogating or restricting any such function in any manner.

Richard Nixon.

### **Executive Order No. 11643**

Ex. Ord. No. 11643, eff. Feb. 8, 1972, 37 F.R. 2875, as amended by Ex. Ord. No. 11870, eff. July 18, 1975, 40 F.R. 30611; Ex. Ord. No. 11917, eff. May 28, 1976, 41 F.R. 22239, which related to environmental safeguards on activities for animal damage

control on Federal lands, was revoked by Ex. Ord. No. 12342, Jan. 27, 1982, 47 F.R. 4223.

**Ex. Ord. No. 11644. Use of Off-Road Vehicles on Public Lands**

Ex. Ord. No. 11644, Feb. 8, 1972, 37 F.R. 2877, as amended by Ex. Ord. No. 11989, May 24, 1977, 42 F.R. 26959; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

An estimated 5 million off-road recreational vehicles—motorcycles, minibikes, trail bikes, snowmobiles, dunebuggies, all-terrain vehicles, and others—are in use in the United States today, and their popularity continues to increase rapidly. The widespread use of such vehicles on the public lands—often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity—has demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), it is hereby ordered as follows:

Section 1. Purpose. It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

Sec. 2. Definitions. As used in this order, the term:

(1) “public lands” means (A) all lands under the custody and control of the Secretary of the Interior and the Secretary of Agriculture, except Indian lands, (B) lands under the custody and control of the Tennessee Valley Authority that are situated in western Kentucky and Tennessee and are designated as “Land Between the Lakes,” and (C) lands under the custody and control of the Secretary of Defense;

(2) “respective agency head” means the Secretary of the Interior, the Secretary of Defense, the Secretary of Agriculture, and the Board of Directors of the Tennessee Valley Authority, with respect to public lands under the custody and control of each;

(3) “off-road vehicle” means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; except that such term excludes (A) any registered motorboat, (B) any fire, military, emergency or law enforcement vehicle when used for emergency

purposes, and any combat or combat support vehicle when used for national defense purposes, and (C) any vehicle whose use is expressly authorized by the respective agency head under a permit, lease, license, or contract; and

(4) “official use” means use by an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his employment, agency, or representation.

Sec. 3. Zones of Use. (a) Each respective agency head shall develop and issue regulations and administrative instructions, within six months of the date of this order, to provide for administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted, and set a date by which such designation of all public lands shall be completed. Those regulations shall direct that the designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands. The regulations shall further require that the designation of such areas and trails shall be in accordance with the following—

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.

(b) The respective agency head shall ensure adequate opportunity for public participation in the promulgation of such regulations and in the designation of areas and trails under this section.

(c) The limitations on off-road vehicle use imposed under this section shall not apply to official use.

Sec. 4. Operating Conditions. Each respective agency head shall develop and publish, within one year of the date of this order, regulations prescribing operating conditions for off-road vehicles on the public lands. These regulations shall be directed at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts.

Sec. 5. Public Information. The respective agency head shall ensure that areas and trails where off-road vehicle use is permitted are well marked and shall provide for the publication and distribution of information, including maps, describing such areas and trails and explaining the conditions on vehicle use. He shall seek cooperation of relevant State agencies in the dissemination of this information.

Sec. 6. Enforcement. The respective agency head shall, where authorized by law, prescribe appropriate penalties for violation of regulations adopted pursuant to this order, and shall establish procedures for the enforcement of those regulations. To the extent permitted by law, he may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.

Sec. 7. Consultation. Before issuing the regulations or administrative instructions required by this order or designating areas or trails are required by this order and those regulations and administrative instructions, the Secretary of the Interior shall, as appropriate, consult with the Secretary of Energy and the Nuclear Regulatory Commission.

Sec. 8. Monitoring of Effects and Review. (a) The respective agency head shall monitor the effects of the use of off-road vehicles on lands under their jurisdictions. On the basis of the information gathered, they shall from time to time amend or rescind designation of areas or other actions taken pursuant to this order as necessary to further the policy of this order.

(b) The Council on Environmental Quality shall maintain a continuing review of the implementation of this order.

Sec. 9. Special Protection of the Public Lands. (a) Notwithstanding the provisions of Section 3 of this Order, the respective agency head shall, whenever he determines that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicle causing such effects, until such time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence. (b) Each respective agency head is authorized to adopt the policy that portions of the public lands within his jurisdiction shall be closed to use by off-road

vehicles except those areas or trails which are suitable and specifically designated as open to such use pursuant to Section 3 of this Order.

### **Executive Order No. 11987**

Ex. Ord. No. 11987, May 24, 1977, 42 F.R. 26949, which directed executive agencies, and encouraged States, local governments, and private citizens, to restrict the introduction of exotic species into the natural ecosystems on lands and waters under their control, and which directed executive agencies to restrict the exportation of native species for introduction of such species into ecosystems outside the United States where they do not naturally occur, unless such introduction or exportation was found not to have an adverse effect on natural ecosystems, was revoked by Ex. Ord. No. 13112, §6(b), Feb. 3, 1999, 64 F.R. 6186, set out below.

### **Ex. Ord. No. 11988. Floodplain Management**

Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, as amended by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (Public Law 93-234, 87 Stat. 975) [see Short Title of 1973 Amendment note set out under 42 U.S.C. 4001], in order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative, it is hereby ordered as follows:

Section 1. Each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

Sec. 2. In carrying out the activities described in Section 1 of this Order, each agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of this Order, as follows:

(a)(1) Before taking an action, each agency shall determine whether the proposed action will occur in a floodplain—for major Federal actions significantly affecting the quality of the human environment, the evaluation required below will be included in any statement prepared under Section 102(2)(C) of the National Environmental Policy Act [42 U.S.C. 4332(2)(C)]. This determination shall be made according to a Department of Housing and Urban Development (HUD) floodplain map or a more detailed map of an area, if available. If such maps are not available, the agency shall make a determination of the location of the floodplain based on the best available information. The Water Resources Council shall issue guidance on this information not later than October 1, 1977.

(2) If an agency has determined to, or proposes to, conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains. If the head of the agency finds that the only practicable alternative consistent with the law and with the policy set forth in this Order requires siting in a floodplain, the agency shall, prior to taking action, (i) design or modify its action in order to minimize potential harm to or within the floodplain, consistent with regulations issued in accord with Section 2(d) of this Order, and (ii) prepare and circulate a notice containing an explanation of why the action is proposed to be located in the floodplain.

(3) For programs subject to the Office of Management and Budget Circular A-95, the agency shall send the notice, not to exceed three pages in length including a location map, to the state and areawide A-95 clearinghouses for the geographic areas affected. The notice shall include: (i) the reasons why the action is proposed to be located in a floodplain; (ii) a statement indicating whether the action conforms to applicable state or local floodplain protection standards and (iii) a list of the alternatives considered. Agencies shall endeavor to allow a brief comment period prior to taking any action.

(4) Each agency shall also provide opportunity for early public review of any plans or proposals for actions in floodplains, in accordance with Section 2(b) of Executive Order No. 11514, as amended [set out above], including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4332(2)(C)].

(b) Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in a floodplain, whether the proposed action is in accord with this Order.

(c) Each agency shall take floodplain management into account when formulating or evaluating any water and land use plans and shall require land and water resources use appropriate to the degree of hazard involved. Agencies shall include adequate provision for the evaluation and consideration of flood hazards in the regulations and operating

procedures for the licenses, permits, loan or grants-in-aid programs that they administer. Agencies shall also encourage and provide appropriate guidance to applicants to evaluate the effects of their proposals in floodplains prior to submitting applications for Federal licenses, permits, loans or grants.

(d) As allowed by law, each agency shall issue or amend existing regulations and procedures within one year to comply with this Order. These procedures shall incorporate the Unified National Program for Floodplain Management of the Water Resources Council, and shall explain the means that the agency will employ to pursue the nonhazardous use of riverine, coastal and other floodplains in connection with the activities under its authority. To the extent possible, existing processes, such as those of the Council on Environmental Quality and the Water Resources Council, shall be utilized to fulfill the requirements of this Order. Agencies shall prepare their procedures in consultation with the Water Resources Council, the Director of the Federal Emergency Management Agency, and the Council on Environmental Quality, and shall update such procedures as necessary.

Sec. 3. In addition to the requirements of Section 2, agencies with responsibilities for Federal real property and facilities shall take the following measures:

(a) The regulations and procedures established under Section 2(d) of this Order shall, at a minimum, require the construction of Federal structures and facilities to be in accordance with the standards and criteria and to be consistent with the intent of those promulgated under the National Flood Insurance Program. They shall deviate only to the extent that the standards of the Flood Insurance Program are demonstrably inappropriate for a given type of structure or facility.

(b) If, after compliance with the requirements of this Order, new construction of structures or facilities are to be located in a floodplain, accepted floodproofing and other flood protection measures shall be applied to new construction or rehabilitation. To achieve flood protection, agencies shall, wherever practicable, elevate structures above the base flood level rather than filling in land.

(c) If property used by the general public has suffered flood damage or is located in an identified flood hazard area, the responsible agency shall provide on structures, and other places where appropriate, conspicuous delineation of past and probable flood height in order to enhance public awareness of and knowledge about flood hazards.

(d) When property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, the Federal agency shall (1) reference in the conveyance those uses that are restricted under identified Federal, State or local floodplain regulations; and (2) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successors, except where prohibited by law; or (3) withhold such properties from conveyance.

Sec. 4. In addition to any responsibilities under this Order and Sections 202 and 205 of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4106 and 4128), agencies which guarantee, approve, regulate, or insure any financial transaction which is related to an area located in a floodplain shall, prior to completing action on such transaction, inform any private parties participating in the transaction of the hazards of locating structures in the floodplain.

Sec. 5. The head of each agency shall submit a report to the Council on Environmental Quality and to the Water Resources Council on June 30, 1978, regarding the status of their procedures and the impact of this Order on the agency's operations. Thereafter, the Water Resources Council shall periodically evaluate agency procedures and their effectiveness.

Sec. 6. As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting floodplains.

(b) The term "base flood" shall mean that flood which has a one percent or greater chance of occurrence in any given year.

(c) The term "floodplain" shall mean the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year.

Sec. 7. Executive Order No. 11296 of August 10, 1966, is hereby revoked. All actions, procedures, and issuances taken under that Order and still in effect shall remain in effect until modified by appropriate authority under the terms of this Order.

Sec. 8. Nothing in this Order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

Sec. 9. To the extent the provisions of Section 2(a) of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental



review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4321].

Jimmy Carter.

**Ex. Ord. No. 11990. Protection of Wetlands**

Ex. Ord. No. 11990, May 24, 1977, 42 F.R. 26961, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), in order to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative, it is hereby ordered as follows:

Section 1. (a) Each agency shall provide leadership and shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

(b) This Order does not apply to the issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property.

Sec. 2. (a) In furtherance of Section 101(b)(3) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)(3)) to improve and coordinate Federal plans, functions, programs and resources to the end that the Nation may attain the widest range of beneficial uses of the environment without degradation and risk to health or safety, each agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use. In making this finding the head of the agency may take into account economic, environmental and other pertinent factors.

(b) Each agency shall also provide opportunity for early public review of any plans or proposals for new construction in wetlands, in accordance with Section 2(b) of Executive Order No. 11514, as amended [set out above], including the development of procedures to accomplish this objective for Federal actions whose impact is not

significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4332(2)(C)].

Sec. 3. Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in wetlands, whether the proposed action is in accord with this Order.

Sec. 4. When Federally-owned wetlands or portions of wetlands are proposed for lease, easement, right-of-way or disposal to non-Federal public or private parties, the Federal agency shall (a) reference in the conveyance those uses that are restricted under identified Federal, State or local wetlands regulations; and (b) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successor, except where prohibited by law; or (c) withhold such properties from disposal.

Sec. 5. In carrying out the activities described in Section 1 of this Order, each agency shall consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are:

(a) public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion;

(b) maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and

(c) other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

Sec. 6. As allowed by law, agencies shall issue or amend their existing procedures in order to comply with this Order. To the extent possible, existing processes, such as those of the Council on Environmental Quality, shall be utilized to fulfill the requirements of this Order.

Sec. 7. As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting wetlands.

(b) The term “new construction” shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of this Order.

(c) The term “wetlands” means those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

Sec. 8. This Order does not apply to projects presently under construction, or to projects for which all of the funds have been appropriated through Fiscal Year 1977, or to projects and programs for which a draft or final environmental impact statement will be filed prior to October 1, 1977. The provisions of Section 2 of this Order shall be implemented by each agency not later than October 1, 1977.

Sec. 9. Nothing in this Order shall apply to assistance provided for emergency work, essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

Sec. 10. To the extent the provisions of Sections 2 and 5 of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4321 et seq.].

#### **Ex. Ord. No. 12088. Federal Compliance With Pollution Control Standards**

Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, as amended by Ex. Ord. No. 12580, Jan. 23, 1987, 52 F.R. 2928; Ex. Ord. No. 13148, §901, Apr. 21, 2000, 65 F.R. 24604, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 22 of the Toxic Substances Control Act (15 U.S.C. 2621), Section 313 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323), Section 1447 of the Public Health Service Act, as amended by the Safe Drinking Water Act [now Safe Drinking Water Act of 1974] (42 U.S.C. 300j–6), Section 118 of the Clean Air Act, as amended (42 U.S.C. 7418(b)), Section 4 of the Noise Control Act of 1972 (42 U.S.C. 4903), Section 6001 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6961), and Section 301 of Title 3 of the United States Code, and to ensure

Federal compliance with applicable pollution control standards, it is hereby ordered as follows:

### **1-1. Applicability of Pollution Control Standards**

1-101. The head of each Executive agency is responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to Federal facilities and activities under the control of the agency.

1-102. The head of each Executive agency is responsible for compliance with applicable pollution control standards, including those established pursuant to, but not limited to, the following:

- (a) Toxic Substances Control Act (15 U.S.C. 2601 et seq.).
- (b) Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.).
- (c) Public Health Service Act, as amended by the Safe Drinking Water Act [now Safe Drinking Water Act of 1974] (42 U.S.C. 300f et seq.).
- (d) Clean Air Act, as amended (42 U.S.C. 7401 et seq.).
- (e) Noise Control Act of 1972 (42 U.S.C. 4901 et seq.).
- (f) Solid Waste Disposal Act, as amended (42 U.S.C. 6901 et seq.).
- (g) Radiation guidance pursuant to Section 274(h) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021(h)); see also, the Radiation Protection Guidance to Federal Agencies for Diagnostic X Rays approved by the President on January 26, 1978 and published at page 4377 of the Federal Register on February 1, 1978).
- (h) Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1401, 1402, 1411-1421, 1441-1444 and 16 U.S.C. 1431-1434) [16 U.S.C. 1431 et seq., 1447 et seq.; 33 U.S.C. 1401 et seq., 2801 et seq.].
- (i) Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 et seq.).

1-103. "Applicable pollution control standards" means the same substantive, procedural, and other requirements that would apply to a private person.

### **1-2. Agency Coordination**

1-201. Each Executive agency shall cooperate with the Administrator of the Environmental Protection Agency, hereinafter referred to as the Administrator, and State, interstate, and local agencies in the prevention, control, and abatement of environmental pollution.

1-202. Each Executive agency shall consult with the Administrator and with State, interstate, and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

### **1-3. Technical Advice and Oversight**

1-301. The Administrator shall provide technical advice and assistance to Executive agencies in order to ensure their cost effective and timely compliance with applicable pollution control standards.

1-302. The administrator shall conduct such reviews and inspections as may be necessary to monitor compliance with applicable pollution control standards by Federal facilities and activities.

### **1-4. Pollution Control Plan**

[Revoked by Ex. Ord. No. 13148, §901, Apr. 21, 2000, 65 F.R. 24604.]

### **1-5. Funding**

1-501. The head of each Executive agency shall ensure that sufficient funds for compliance with applicable pollution control standards are requested in the agency budget.

1-502. The head of each Executive agency shall ensure that funds appropriated and apportioned for the prevention, control and abatement of environmental pollution are not used for any other purpose unless permitted by law and specifically approved by the Office of Management and Budget.

### **1-6. Compliance With Pollution Controls**

1-601. Whenever the Administrator or the appropriate State, interstate, or local agency notifies an Executive agency that it is in violation of an applicable pollution control standard (see Section 1-102 of this Order), the Executive agency shall promptly consult with the notifying agency and provide for its approval a plan to achieve and maintain compliance with the applicable pollution control standard. This plan shall include an implementation schedule for coming into compliance as soon as practicable.

1-602. The Administrator shall make every effort to resolve conflicts regarding such violation between Executive agencies and, on request of any party, such conflicts between an Executive agency and a State, interstate, or a local agency. If the Administrator cannot resolve a conflict, the Administrator shall request the Director of the Office of Management and Budget to resolve the conflict.

1-603. The Director of the Office of Management and Budget shall consider unresolved conflicts at the request of the Administrator. The Director shall seek the Administrator's technological judgment and determination with regard to the applicability of statutes and regulations.

1-604. These conflict resolution procedures are in addition to, not in lieu of, other procedures, including sanctions, for the enforcement of applicable pollution control standards.

1-605. Except as expressly provided by a Presidential exemption under this Order, nothing in this Order, nor any action or inaction under this Order, shall be construed to revise or modify any applicable pollution control standard.

#### **1-7. Limitation on Exemptions**

1-701. Exemptions from applicable pollution control standards may only be granted under statutes cited in Section 1-102(a) through 1-102(f) if the President makes the required appropriate statutory determination: that such exemption is necessary (a) in the interest of national security, or (b) in the paramount interest of the United States.

1-702. The head of an Executive agency may, from time to time, recommend to the President through the Director of the Office of Management and Budget, that an activity or facility, or uses thereof, be exempt from an applicable pollution control standard.

1-703. The Administrator shall advise the President, through the Director of the Office of Management and Budget, whether he agrees or disagrees with a recommendation for exemption and his reasons therefor.

1-704. The Director of the Office of Management and Budget must advise the President within sixty days of receipt of the Administrator's views.

#### **1-8. General Provisions**

1-801. The head of each Executive agency that is responsible for the construction or operation of Federal facilities outside the United States shall ensure that such construction or operation complies with the environmental pollution control standards of general applicability in the host country or jurisdiction.

1-802. Nothing in this Order shall create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

1-803. Executive Order No. 11752 of December 17, 1973, is revoked.

### **Ex. Ord. No. 12114. Environmental Effects Abroad of Major Federal Actions**

Ex. Ord. No. 12114, Jan. 4, 1979, 44 F.R. 1957, provided:

By virtue of the authority vested in me by the Constitution and the laws of the United States, and as President of the United States, in order to further environmental objectives consistent with the foreign policy and national security policy of the United States, it is ordered as follows:

#### **Section 1**

1-1. Purpose and Scope. The purpose of this Executive Order is to enable responsible officials of Federal agencies having ultimate responsibility for authorizing and approving actions encompassed by this Order to be informed of pertinent environmental considerations and to take such considerations into account, with other pertinent considerations of national policy, in making decisions regarding such actions. While based on independent authority, this Order furthers the purpose of the National Environmental Policy Act [42 U.S.C. 4321 et seq.] and the Marine Protection Research and Sanctuaries Act [16 U.S.C. 1431 et seq. and 33 U.S.C. 1401 et seq.] and the Deepwater Port Act [33 U.S.C. 1501 et seq.] consistent with the foreign policy and national security policy of the United States, and represents the United States government's exclusive and complete determination of the procedural and other actions to be taken by Federal agencies to further the purpose of the National Environmental Policy Act, with respect to the environment outside the United States, its territories and possessions.

#### **Section 2**

2-1. Agency Procedures. Every Federal agency taking major Federal actions encompassed hereby and not exempted herefrom having significant effects on the environment outside the geographical borders of the United States and its territories and possessions shall within eight months after the effective date of this Order have in effect procedures to implement this Order. Agencies shall consult with the Department of State and the Council on Environmental Quality concerning such procedures prior to placing them in effect.

2-2. Information Exchange. To assist in effectuating the foregoing purpose, the Department of State and the Council on Environmental Quality in collaboration with

other interested Federal agencies and other nations shall conduct a program for exchange on a continuing basis of information concerning the environment. The objectives of this program shall be to provide information for use by decisionmakers, to heighten awareness of and interest in environmental concerns and, as appropriate, to facilitate environmental cooperation with foreign nations.

2-3. Actions Included. Agencies in their procedures under Section 2-1 shall establish procedures by which their officers having ultimate responsibility for authorizing and approving actions in one of the following categories encompassed by this Order, take into consideration in making decisions concerning such actions, a document described in Section 2-4(a):

(a) major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica);

(b) major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action;

(c) major Federal actions significantly affecting the environment of a foreign nation which provide to that nation:

(1) a product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk; or

(2) a physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

(d) major Federal actions outside the United States, its territories and possessions which significantly affect natural or ecological resources of global importance designated for protection under this subsection by the President, or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State. Recommendations to the President under this subsection shall be accompanied by the views of the Council on Environmental Quality and the Secretary of State.

2-4. Applicable Procedures. (a) There are the following types of documents to be used in connection with actions described in Section 2-3:

(i) environmental impact statements (including generic, program and specific statements);

(ii) bilateral or multilateral environmental studies, relevant or related to the proposed action, by the United States and one [or more] more foreign nations, or by an



international body or organization in which the United States is a member or participant;  
or

(iii) concise reviews of the environmental issues involved, including environmental assessments, summary environmental analyses or other appropriate documents.

(b) Agencies shall in their procedures provide for preparation of documents described in Section 2–4(a), with respect to actions described in Section 2–3, as follows:

(i) for effects described in Section 2–3(a), an environmental impact statement described in Section 2–4(a)(i);

(ii) for effects described in Section 2–3(b), a document described in Section 2–4(a)(ii) or (iii), as determined by the agency;

(iii) for effects described in Section 2–3(c), a document described in Section 2–4(a)(ii) or (iii), as determined by the agency;

(iv) for effects described in Section 2–3(d), a document described in Section 2–4(a)(i), (ii) or (iii), as determined by the agency.

Such procedures may provide that an agency need not prepare a new document when a document described in Section 2–4(a) already exists.

(c) Nothing in this Order shall serve to invalidate any existing regulations of any agency which have been adopted pursuant to court order or pursuant to judicial settlement of any case or to prevent any agency from providing in its procedures for measures in addition to those provided for herein to further the purpose of the National Environmental Policy Act [43 U.S.C. 4321 et seq.] and other environmental laws, including the Marine Protection Research and Sanctuaries Act [16 U.S.C. 1431 et seq. and 33 U.S.C. 1401 et seq.], and the Deepwater Port Act [33 U.S.C. 1501 et seq.], consistent with the foreign and national security policies of the United States.

(d) Except as provided in Section 2–5(b), agencies taking action encompassed by this Order shall, as soon as feasible, inform other Federal agencies with relevant expertise of the availability of environmental documents prepared under this Order.

Agencies in their procedures under Section 2–1 shall make appropriate provision for determining when an affected nation shall be informed in accordance with Section 3–2 of this Order of the availability of environmental documents prepared pursuant to those procedures.

In order to avoid duplication of resources, agencies in their procedures shall provide for appropriate utilization of the resources of other Federal agencies with relevant environmental jurisdiction or expertise.

2–5. Exemptions and Considerations. (a) Notwithstanding Section 2–3, the following actions are exempt from this Order:

(i) actions not having a significant effect on the environment outside the United States as determined by the agency;

(ii) actions taken by the President;

(iii) actions taken by or pursuant to the direction of the President or Cabinet officer when the national security or interest is involved or when the action occurs in the course of an armed conflict;

(iv) intelligence activities and arms transfers;

(v) export licenses or permits or export approvals, and actions relating to nuclear activities except actions providing to a foreign nation a nuclear production or utilization facility as defined in the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], as amended, or a nuclear waste management facility;

(vi) votes and other actions in international conferences and organizations;

(vii) disaster and emergency relief action.

(b) Agency procedures under Section 2–1 implementing Section 2–4 may provide for appropriate modifications in the contents, timing and availability of documents to other affected Federal agencies and affected nations, where necessary to:

(i) enable the agency to decide and act promptly as and when required;

(ii) avoid adverse impacts on foreign relations or infringement in fact or appearance of other nations' sovereign responsibilities, or

(iii) ensure appropriate reflection of:

(1) diplomatic factors;

(2) international commercial, competitive and export promotion factors;

(3) needs for governmental or commercial confidentiality;

(4) national security considerations;

(5) difficulties of obtaining information and agency ability to analyze meaningfully environmental effects of a proposed action; and

(6) the degree to which the agency is involved in or able to affect a decision to be made.

(c) Agency procedure under Section 2–1 may provide for categorical exclusions and for such exemptions in addition to those specified in subsection (a) of this Section as may be necessary to meet emergency circumstances, situations involving exceptional foreign policy and national security sensitivities and other such special circumstances. In utilizing such additional exemptions agencies shall, as soon as feasible, consult with the Department of State and the Council on Environmental Quality.

(d) The provisions of Section 2–5 do not apply to actions described in Section 2–3(a) unless permitted by law.

### **Section 3**

3–1. Rights of Action. This Order is solely for the purpose of establishing internal procedures for Federal agencies to consider the significant effects of their actions on the environment outside the United States, its territories and possessions, and nothing in this Order shall be construed to create a cause of action.

3–2. Foreign Relations. The Department of State shall coordinate all communications by agencies with foreign governments concerning environmental agreements and other arrangements in implementation of this Order.

3–3. Multi-Agency Actions. Where more than one Federal agency is involved in an action or program, a lead agency, as determined by the agencies involved, shall have responsibility for implementation of this Order.

3–4. Certain Terms. For purposes of this Order, “environment” means the natural and physical environment and excludes social, economic and other environments; and an action significantly affects the environment if it does significant harm to the environment even though on balance the agency believes the action to be beneficial to the environment. The term “export approvals” in Section 2–5(a)(v) does not mean or include direct loans to finance exports.

3–5. Multiple Impacts. If a major Federal action having effects on the environment of the United States or the global commons requires preparation of an environmental impact statement, and if the action also has effects on the environment of a foreign nation, an environmental impact statement need not be prepared with respect to the effects on the environment of the foreign nation.

Jimmy Carter.

**Executive Order No. 12194**

Ex. Ord. No. 12194, Feb. 21, 1980, 45 F.R. 12209, which established the Radiation Policy Council and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, §23, Aug. 17, 1982, 47 F.R. 36100, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

**Executive Order No. 12737**

Ex. Ord. No. 12737, Dec. 12, 1990, 55 F.R. 51681, which established President's Commission on Environmental Quality and provided for its functions and administration, was revoked by Ex. Ord. No. 12852, §4(c), June 29, 1993, 58 F.R. 35841, formerly set out below.

**Ex. Ord. No. 12761. Establishment of President's Environment and Conservation Challenge Awards**

Ex. Ord. No. 12761, May 21, 1991, 56 F.R. 23645, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish, in accordance with the goals and purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), and the National Environmental Education Act, Public Law 101-619, 104 Stat. 3325 (1990) [20 U.S.C. 5501 et seq.], an awards program to raise environmental awareness and to recognize outstanding achievements in the United States and in its territories in the areas of conservation and environmental protection by both the public and private sectors, it is hereby ordered as follows:

Section 1. Establishment. The President's Environment and Conservation Challenge Awards program is established for the purposes of recognizing outstanding environmental achievements by U.S. citizens, enterprises, or programs; providing an incentive for environmental accomplishment; promoting cooperative partnerships between diverse groups working together to achieve common environmental goals; and identifying successful environmental programs that can be replicated.

Sec. 2. Administration. (a) The Council on Environmental Quality, with the assistance of the President's Commission on Environmental Quality, shall organize, manage, and administer the awards program, including the development of selection criteria, the nomination of eligible individuals to receive the award, and the selection of award recipients.

(b) Any expenses of the program shall be paid from funds available for the expenses of the Council on Environmental Quality.

Sec. 3. Awards. (a) Up to three awards in each of the following four categories shall be made annually to eligible individuals, organizations, groups, or entities:

(i) Quality Environmental Management Awards (incorporation of environmental concerns into management decisions and practices);

(ii) Partnership Awards (successful coalition building efforts);

(iii) Innovation Awards (innovative technology programs, products, or processes); and

(iv) Education and Communication Awards (education and information programs contributing to the development of an ethic fostering conservation and environmental protection).

(b) Presidential citations shall be given to eligible program finalists who demonstrate notable or unique achievements, but who are not selected to receive awards.

Sec. 4. Eligibility. Only residents of the United States and organizations, groups, or entities doing business in the United States are eligible to receive an award under this program. An award under this program shall be given only for achievements in the United States or its territories. Organizations, groups, or entities may be profit or nonprofit, public or private entities.

Sec. 5. Information System. The Council on Environmental Quality shall establish and maintain a data bank with information about award nominees to catalogue and publicize model conservation or environmental protection programs which could be replicated.

George Bush.

#### **Executive Order No. 12852**

Ex. Ord. No. 12852, June 29, 1993, 58 F.R. 35841, as amended by Ex. Ord. No. 12855, July 19, 1993, 58 F.R. 39107; Ex. Ord. No. 12965, June 27, 1995, 60 F.R. 34087; Ex. Ord. No. 12980, Nov. 17, 1995, 60 F.R. 57819; Ex. Ord. No. 13053, June 30, 1997, 62 F.R. 39945 [35945]; Ex. Ord. No. 13114, Feb. 25, 1999, 64 F.R. 10099, which established the President's Council on Sustainable Development, was revoked by Ex. Ord. No. 13138, §3(f), Sept. 30, 1999, 64 F.R. 53880, formerly set out as a note under section 14 of the Appendix to Title 5, Government Organization and Employees.

#### **Ex. Ord. No. 12898. Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations**

Ex. Ord. No. 12898, Feb. 11, 1994, 59 F.R. 7629, as amended by Ex. Ord. No. 12948, Jan. 30, 1995, 60 F.R. 6381, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1–1. IMPLEMENTATION.

1–101. Agency Responsibilities. To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

1–102. Creation of an Interagency Working Group on Environmental Justice. (a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency (“Administrator”) or the Administrator's designee shall convene an interagency Federal Working Group on Environmental Justice (“Working Group”). The Working Group shall comprise the heads of the following executive agencies and offices, or their designees: (a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor; (e) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate. The Working Group shall report to the President through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy.

(b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(2) coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy as required by section 1–103 of this order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner;

- (3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Housing and Urban Development, and other agencies conducting research or other activities in accordance with section 3–3 of this order;
- (4) assist in coordinating data collection, required by this order;
- (5) examine existing data and studies on environmental justice;
- (6) hold public meetings as required in section 5–502(d) of this order; and
- (7) develop interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1–103. Development of Agency Strategies. (a) Except as provided in section 6–605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)–(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) By March 24, 1995, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. From the date of this order through March 24, 1995, each Federal agency, as part of its

environmental justice strategy, shall identify several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1–104. Reports to the President. Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1–103(e) of this order.

Sec. 2–2. FEDERAL AGENCY RESPONSIBILITIES FOR FEDERAL PROGRAMS. Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

Sec. 3–3. RESEARCH, DATA COLLECTION, AND ANALYSIS.

3–301. Human Health and Environmental Research and Analysis. (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3–302. Human Health and Environmental Data Collection and Analysis. To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect,



maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(b) In connection with the development and implementation of agency strategies in section 1–103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001–11050 as mandated in Executive Order No. 12856 [former 42 U.S.C. 11001 note]; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public, unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

#### Sec. 4–4. SUBSISTENCE CONSUMPTION OF FISH AND WILDLIFE.

4–401. Consumption Patterns. In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4–402. Guidance. Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife. Agencies shall consider such guidance in developing their policies and rules.

Sec. 5–5. PUBLIC PARTICIPATION AND ACCESS TO INFORMATION. (a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

Sec. 6–6. GENERAL PROVISIONS.

6–601. Responsibility for Agency Implementation. The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6–602. Executive Order No. 12250. This Executive order is intended to supplement but not supersede Executive Order No. 12250 [42 U.S.C. 2000d–1 note], which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6–603. Executive Order No. 12875. This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875 [former 5 U.S.C. 601 note].

6–604. Scope. For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6–605. Petitions for Exemptions. The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

6–606. Native American Programs. Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

6–607. Costs. Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6–608. General. Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6–609. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, or any other person with this order.

William J. Clinton.

**Ex. Ord. No. 13045. Protection of Children From Environmental Health Risks and Safety Risks**

Ex. Ord. No. 13045, Apr. 21, 1997, 62 F.R. 19885, as amended by Ex. Ord. No. 13229, Oct. 9, 2001, 66 F.R. 52013; Ex. Ord. No. 13296, Apr. 18, 2003, 68 F.R. 19931, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy.

1–101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive, and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features; and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves. Therefore, to the extent permitted by law and appropriate, and consistent with the agency's mission, each Federal agency:

(a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and

(b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

1–102. Each independent regulatory agency is encouraged to participate in the implementation of this order and comply with its provisions.

Sec. 2. Definitions. The following definitions shall apply to this order.

2–201. “Federal agency” means any authority of the United States that is an agency under 44 U.S.C. 3502(1) other than those considered to be independent regulatory agencies under 44 U.S.C. 3502(5). For purposes of this order, “military departments,” as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

2–202. “Covered regulatory action” means any substantive action in a rulemaking, initiated after the date of this order or for which a Notice of Proposed Rulemaking is published 1 year after the date of this order, that is likely to result in a rule that may:

(a) be “economically significant” under Executive Order 12866 [5 U.S.C. 601 note] (a rulemaking that has an annual effect on the economy of \$100 million or more or would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities); and

(b) concern an environmental health risk or safety risk that an agency has reason to believe may disproportionately affect children.

2–203. “Environmental health risks and safety risks” mean risks to health or to safety that are attributable to products or substances that the child is likely to come in contact with or ingest (such as the air we breath, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).

Sec. 3. Task Force on Environmental Health Risks and Safety Risks to Children.

3–301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children (“Task Force”).

3–302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, the Council on Environmental Quality, and the Office of Management and Budget (OMB).

3-303. Membership. The Task Force shall be composed of the:

- (a) Secretary of Health and Human Services, who shall serve as a Co-Chair of the Council;
- (b) Administrator of the Environmental Protection Agency, who shall serve as a Co-Chair of the Council;
- (c) Secretary of Education;
- (d) Secretary of Labor;
- (e) Attorney General;
- (f) Secretary of Energy;
- (g) Secretary of Housing and Urban Development;
- (h) Secretary of Agriculture;
- (i) Secretary of Transportation;
- (j) Director of the Office of Management and Budget;
- (k) Chair of the Council on Environmental Quality;
- (l) Chair of the Consumer Product Safety Commission;
- (m) Assistant to the President for Economic Policy;
- (n) Assistant to the President for Domestic Policy;
- (o) Director of the Office of Science and Technology Policy;
- (p) Chair of the Council of Economic Advisers; and
- (q) Such other officials of executive departments and agencies as the President may, from time to time, designate.

Members of the Task Force may delegate their responsibilities under this order to subordinates.

3–304. Functions. The Task Force shall recommend to the President Federal strategies for children's environmental health and safety, within the limits of the Administration's budget, to include the following elements:

(a) statements of principles, general policy, and targeted annual priorities to guide the Federal approach to achieving the goals of this order;

(b) a coordinated research agenda for the Federal Government, including steps to implement the review of research databases described in section 4 of this order;

(c) recommendations for appropriate partnerships among Federal, State, local, and tribal governments and the private, academic, and nonprofit sectors;

(d) proposals to enhance public outreach and communication to assist families in evaluating risks to children and in making informed consumer choices;

(e) an identification of high-priority initiatives that the Federal Government has undertaken or will undertake in advancing protection of children's environmental health and safety; and

(f) a statement regarding the desirability of new legislation to fulfill or promote the purposes of this order.

3–305. The Task Force shall prepare a biennial report on research, data, or other information that would enhance our ability to understand, analyze, and respond to environmental health risks and safety risks to children. For purposes of this report, executive departments, the Environmental Protection Agency, and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. Each report shall also detail the accomplishments of the Task Force from the date of the preceding report. The Task Force shall incorporate agency submissions into its report and ensure that this report is publicly available and widely disseminated. The Office of Science and Technology Policy and the National Science and Technology Council shall ensure that this report is fully considered in establishing research priorities.

3–306. The Task Force shall exist for 8 years from the date of this order.

#### Sec. 4. Research Coordination and Integration.

4–401. Within 6 months of the date of this order, the Task Force shall develop or direct to be developed a review of existing and planned data resources and a proposed plan for ensuring that researchers and Federal research agencies have access to information on all research conducted or funded by the Federal Government that is related to adverse health

risks in children resulting from exposure to environmental health risks or safety risks. The National Science and Technology Council shall review the plan.

4-402. The plan shall promote the sharing of information on academic and private research. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all Federal agencies.

#### Sec. 5. Agency Environmental Health Risk or Safety Risk Regulations.

5-501. For each covered regulatory action submitted to OMB's Office of Information and Regulatory Affairs (OIRA) for review pursuant to Executive Order 12866 [5 U.S.C. 601 note], the issuing agency shall provide to OIRA the following information developed as part of the agency's decisionmaking process, unless prohibited by law:

(a) an evaluation of the environmental health or safety effects of the planned regulation on children; and

(b) an explanation of why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

5-502. In emergency situations, or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall comply with the provisions of this section to the extent practicable. For those covered regulatory actions that are governed by a court-imposed or statutory deadline, the agency shall, to the extent practicable, schedule any rulemaking proceedings so as to permit sufficient time for completing the analysis required by this section.

5-503. The analysis required by this section may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

#### Sec. 6. Interagency Forum on Child and Family Statistics.

6-601. The Director of the OMB ("Director") shall convene an Interagency Forum on Child and Family Statistics ("Forum"), which will include representatives from the appropriate Federal statistics and research agencies. The Forum shall produce a biennial compendium ("Report") of the most important indicators of the well-being of the Nation's children.

6-602. The Forum shall determine the indicators to be included in each Report and identify the sources of data to be used for each indicator. The Forum shall provide an ongoing review of Federal collection and dissemination of data on children and families,

and shall make recommendations to improve the coverage and coordination of data collection and to reduce duplication and overlap.

6-603. The Report shall be published by the Forum in collaboration with the National Institute of Child Health and Human Development [now the Eunice Kennedy Shriver National Institute of Child Health and Human Development]. The Forum shall present the first annual Report to the President, through the Director, by July 31, 1997. The Report shall be published biennially thereafter, using the most recently available data.

#### Sec. 7. General Provisions.

7-701. This order is intended only for internal management of the executive branch. This order is not intended, and should not be construed to create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.

7-702. Executive Order 12606 of September 2, 1987 is revoked.

7-703. Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

#### **Ex. Ord. No. 13061. Federal Support of Community Efforts Along American Heritage Rivers**

Ex. Ord. No. 13061, Sept. 11, 1997, 62 F.R. 48445, as amended by Ex. Ord. No. 13093, July 27, 1998, 63 F.R. 40357, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Environmental Policy Act of 1969 (Public Law 91-190) [42 U.S.C. 4321 et seq.], and in order to protect and restore rivers and their adjacent communities, it is hereby ordered as follows:

##### Section 1. Policies.

(a) The American Heritage Rivers initiative has three objectives: natural resource and environmental protection, economic revitalization, and historic and cultural preservation.

(b) Executive agencies (“agencies”), to the extent permitted by law and consistent with their missions and resources, shall coordinate Federal plans, functions, programs, and



resources to preserve, protect, and restore rivers and their associated resources important to our history, culture, and natural heritage.

(c) Agencies shall develop plans to bring increased efficiencies to existing and authorized programs with goals that are supportive of protection and restoration of communities along rivers.

(d) In accordance with Executive Order 12630 [5 U.S.C. 601 note], agencies shall act with due regard for the protection of private property provided for by the Fifth Amendment to the United States Constitution. No new regulatory authority is created as a result of the American Heritage Rivers initiative. This initiative will not interfere with matters of State, local, and tribal government jurisdiction.

(e) In furtherance of these policies, the President will designate rivers that meet certain criteria as “American Heritage Rivers.”

(f) It is the policy of the Federal Government that communities shall nominate rivers as American Heritage Rivers and the Federal role will be solely to support community-based efforts to preserve, protect, and restore these rivers and their communities.

(g) Agencies should, to the extent practicable, help identify resources in the private and nonprofit sectors to aid revitalization efforts.

(h) Agencies are encouraged, to the extent permitted by law, to develop partnerships with State, local, and tribal governments and community and nongovernmental organizations. Agencies will be responsive to the diverse needs of different kinds of communities from the core of our cities to remote rural areas and shall seek to ensure that the role played by the Federal Government is complementary to the plans and work being carried out by State, local, and tribal governments. To the extent possible, Federal resources will be strategically directed to complement resources being spent by these governments.

(i) Agencies shall establish a method for field offices to assess the success of the American Heritage River initiative and provide a means to recommend changes that will improve the delivery and accessibility of Federal services and programs. Agencies are directed, where appropriate, to reduce and make more flexible procedural requirements and paperwork related to providing assistance to communities along designated rivers.

(j) Agencies shall commit to a policy under which they will seek to ensure that their actions have a positive effect on the natural, historic, economic, and cultural resources of American Heritage River communities. The policy will require agencies to consult with American Heritage River communities early in the planning stages of Federal actions, take into account the communities’ goals and objectives and ensure that actions are compatible with the overall character of these communities. Agencies shall seek to

ensure that their help for one community does not adversely affect neighboring communities. Additionally, agencies are encouraged to develop formal and informal partnerships to assist communities. Local Federal facilities, to the extent permitted by law and consistent with the agencies' missions and resources, should provide public access, physical space, technical assistance, and other support for American Heritage River communities.

(k) In addition to providing support to designated rivers, agencies will work together to provide information and services to all communities seeking support.

## Sec. 2. Process for Nominating an American Heritage River.

(a) **Nomination.** Communities, in coordination with their State, local, or tribal governments, can nominate their river, river stretch, or river confluence for designation as an American Heritage River. When several communities are involved in the nomination of the same river, nominations will detail the coordination among the interested communities and the role each will play in the process. Individuals living outside the community may not nominate a river.

(b) **Selection Criteria.** Nominations will be judged based on the following:

(1) the characteristics of the natural, economic, agricultural, scenic, historic, cultural, or recreational resources of the river that render it distinctive or unique;

(2) the effectiveness with which the community has defined its plan of action and the extent to which the plan addresses, either through planned actions or past accomplishments, all three American Heritage Rivers objectives, which are set forth in section 1(a) of this order;

(3) the strength and diversity of community support for the nomination as evidenced by letters from elected officials; landowners; private citizens; businesses; and especially State, local, and tribal governments. Broad community support is essential to receiving the American Heritage River designation; and

(4) willingness and capability of the community to forge partnerships and agreements to implement their plan to meet their goals and objectives.

(c) **Recommendation Process.**

The Chair of the Council on Environmental Quality ("CEQ") shall develop a fair and objective procedure to obtain the views of a diverse group of experts for the purpose of making recommendations to the President as to which rivers shall be designated. These experts shall reflect a variety of viewpoints, such as those representing natural, cultural, and historic resources; scenic, environmental, and recreation interests; tourism,

transportation, and economic development interests; and industries such as agriculture, hydropower, manufacturing, mining, and forest management. The Chair of the CEQ will ensure that the rivers recommended represent a variety of stream sizes, diverse geographical locations, and a wide range of settings from urban to rural and ensure that relatively pristine, successful revitalization efforts are considered as well as degraded rivers in need of restoration.

(d) Designation.

(1) The President will designate certain rivers as American Heritage Rivers. Based on the receipt of a sufficient number of qualified nominations, up to 20 rivers will be designated in the first phase of the initiative.

(2) The Interagency Committee provided for in section 3 of this order shall develop a process by which any community that nominates and has its river designated may have this designation terminated at its request.

(3) Upon a determination by the Chair of the CEQ that a community has failed to implement its plan, the Chair may recommend to the President that a designation be revoked. The Chair shall notify the community at least 30 days prior to making such a recommendation to the President. Based on that recommendation, the President may revoke the designation.

Sec. 3. Establishment of an Interagency Committee. There is hereby established the American Heritage Rivers Interagency Committee ("Committee"). The Committee shall have two co-chairs. The Chair of the CEQ shall be a permanent co-chair. The other co-chair will rotate among the heads of the agencies listed below.

(a) The Committee shall be composed of the following members or their designees at the Assistant Secretary level or equivalent:

(1) The Secretary of Defense;

(2) The Attorney General;

(3) The Secretary of the Interior;

(4) The Secretary of Agriculture;

(5) The Secretary of Commerce;

(6) The Secretary of Housing and Urban Development;

(7) The Secretary of Transportation;

- (8) The Secretary of Energy;
- (9) The Administrator of the Environmental Protection Agency;
- (10) The Chair of the Advisory Council on Historic Preservation;
- (11) The Chairperson of the National Endowment for the Arts; and
- (12) The Chairperson of the National Endowment for the Humanities.

The Chair of the CEQ may invite to participate in meetings of the Committee, representatives of other agencies, as appropriate.

(b) The Committee shall:

- (1) establish formal guidelines for designation as an American Heritage River;
- (2) periodically review the actions of agencies in support of the American Heritage Rivers;
- (3) report to the President on the progress, accomplishments, and effectiveness of the American Heritage Rivers initiative; and
- (4) perform other duties as directed by the Chair of the CEQ.

Sec. 4. Responsibilities of the Federal Agencies. Consistent with Title I of the National Environmental Policy Act of 1969 [42 U.S.C. 4331 et seq.], agencies shall:

- (a) identify their existing programs and plans that give them the authority to offer assistance to communities involved in river conservation and community health and revitalization;
- (b) to the extent practicable and permitted by law and regulation, refocus programs, grants, and technical assistance to provide support for communities adjacent to American Heritage Rivers;
- (c) identify all technical tools, including those developed for purposes other than river conservation, that can be applied to river protection, restoration, and community revitalization;
- (d) provide access to existing scientific data and information to the extent permitted by law and consistent with the agencies mission and resources;

(e) cooperate with State, local, and tribal governments and communities with respect to their activities that take place in, or affect the area around, an American Heritage River;

(f) commit to a policy, as set forth in section 1(j) of this order, in making decisions affecting the quality of an American Heritage River;

(g) select from among all the agencies a single individual called the "River Navigator," for each river that is designated an American Heritage River, with whom the communities can communicate goals and needs and who will facilitate community-agency interchange;

(h) allow public access to the river, for agencies with facilities along American Heritage Rivers, to the extent practicable and consistent with their mission; and

(i) cooperate, as appropriate, with communities on projects that protect or preserve stretches of the river that are on Federal property or adjacent to a Federal facility.

Sec. 5. Responsibilities of the Committee and the Council on Environmental Quality. The CEQ shall serve as Executive agent for the Committee, and the CEQ and the Committee shall ensure the implementation of the policies and purposes of this initiative.

Sec. 6. Definition. For the purposes of this order, Executive agency means any agency on the Committee and such other agency as may be designated by the President.

Sec. 7. Judicial Review. This order does not create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

William J. Clinton.

### **Executive Order No. 13080**

Ex. Ord. No. 13080, Apr. 7, 1998, 63 F.R. 17667, as amended by Ex. Ord. No. 13093, July 27, 1998, 63 F.R. 40357, which established the American Heritage Rivers Initiative Advisory Committee, was revoked by Ex. Ord. No. 13225, §3(b), Sept. 28, 2001, 66 F.R. 50292, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

### **Proc. No. 7112. Designation of American Heritage Rivers**

Proc. No. 7112, July 30, 1998, 63 F.R. 41949, provided:

In celebration of America's rivers, and to recognize and reward grassroots efforts to restore them, last year I announced the American Heritage Rivers initiative. My goal was

to help communities realize their visions for their rivers by making it easier for them to tap existing programs and resources of the Federal Government. From across the country, hundreds of communities answered my call for nominations, asking that their rivers be designated American Heritage Rivers. I applaud all of the communities that have drawn together and dedicated themselves to the goal of healthy rivers, now and forever.

Having reviewed the recommendations of the American Heritage Rivers Initiative Advisory Committee, I am pleased to be able to recognize a select group of rivers and communities that reflect the true diversity and splendor of America's natural endowment, and the tremendous energy and commitment of its citizenry.

Pursuant to Executive Orders 13061 [set out above], 13080, and 13093 [set out above], I hereby designate the following American Heritage Rivers:

- The Blackstone and Woonasquatucket Rivers, in the States of Massachusetts and Rhode Island;
- The Connecticut River, in the States of Connecticut, Massachusetts, New Hampshire, and Vermont;
- The Cuyahoga River, in the State of Ohio;
- The Detroit River, in the State of Michigan;
- The Hanalei River, in the State of Hawaii;
- The Hudson River, in the State of New York;
- The Upper Mississippi River, in the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin;
- The Lower Mississippi River, in the States of Louisiana and Tennessee;
- The New River, in the States of North Carolina, Virginia, and West Virginia;
- The Rio Grande, in the State of Texas;
- The Potomac River, in the District of Columbia and the States of Maryland, Pennsylvania, Virginia, and West Virginia;
- The St. Johns River, in the State of Florida;
- The Upper Susquehanna and Lackawanna Rivers, in the State of Pennsylvania;

- The Willamette River, in the State of Oregon.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of July, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

William J. Clinton.

**Ex. Ord. No. 13112. Invasive Species**

Ex. Ord. No. 13112, Feb. 3, 1999, 64 F.R. 6183, as amended by Ex. Ord. No. 13286, §15, Feb. 28, 2003, 68 F.R. 10623, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, as amended (16 U.S.C. 4701 et seq.), Lacey Act, as amended (18 U.S.C. 42), Federal Plant Pest Act (7 U.S.C. 150aa et seq.), Federal Noxious Weed Act of 1974, as amended (7 U.S.C. 2801 et seq.), Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), and other pertinent statutes, to prevent the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause, it is ordered as follows:

Section 1. Definitions.

- (a) “Alien species” means, with respect to a particular ecosystem, any species, including its seeds, eggs, spores, or other biological material capable of propagating that species, that is not native to that ecosystem.
- (b) “Control” means, as appropriate, eradicating, suppressing, reducing, or managing invasive species populations, preventing spread of invasive species from areas where they are present, and taking steps such as restoration of native species and habitats to reduce the effects of invasive species and to prevent further invasions.
- (c) “Ecosystem” means the complex of a community of organisms and its environment.
- (d) “Federal agency” means an executive department or agency, but does not include independent establishments as defined by 5 U.S.C. 104.
- (e) “Introduction” means the intentional or unintentional escape, release, dissemination, or placement of a species into an ecosystem as a result of human activity.

(f) “Invasive species” means an alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health.

(g) “Native species” means, with respect to a particular ecosystem, a species that, other than as a result of an introduction, historically occurred or currently occurs in that ecosystem.

(h) “Species” means a group of organisms all of which have a high degree of physical and genetic similarity, generally interbreed only among themselves, and show persistent differences from members of allied groups of organisms.

(i) “Stakeholders” means, but is not limited to, State, tribal, and local government agencies, academic institutions, the scientific community, nongovernmental entities including environmental, agricultural, and conservation organizations, trade groups, commercial interests, and private landowners.

(j) “United States” means the 50 States, the District of Columbia, Puerto Rico, Guam, and all possessions, territories, and the territorial sea of the United States.

Sec. 2. Federal Agency Duties. (a) Each Federal agency whose actions may affect the status of invasive species shall, to the extent practicable and permitted by law,

(1) identify such actions;

(2) subject to the availability of appropriations, and within Administration budgetary limits, use relevant programs and authorities to: (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for restoration of native species and habitat conditions in ecosystems that have been invaded; (v) conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and (vi) promote public education on invasive species and the means to address them; and

(3) not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.

(b) Federal agencies shall pursue the duties set forth in this section in consultation with the Invasive Species Council, consistent with the Invasive Species Management Plan and in cooperation with stakeholders, as appropriate, and, as approved by the



Department of State, when Federal agencies are working with international organizations and foreign nations.

Sec. 3. Invasive Species Council. (a) An Invasive Species Council (Council) is hereby established whose members shall include the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Transportation, the Secretary of Homeland Security, and the Administrator of the Environmental Protection Agency. The Council shall be Co-Chaired by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce. The Council may invite additional Federal agency representatives to be members, including representatives from subcabinet bureaus or offices with significant responsibilities concerning invasive species, and may prescribe special procedures for their participation. The Secretary of the Interior shall, with concurrence of the Co-Chairs, appoint an Executive Director of the Council and shall provide the staff and administrative support for the Council.

(b) The Secretary of the Interior shall establish an advisory committee under the Federal Advisory Committee Act, 5 U.S.C. App., to provide information and advice for consideration by the Council, and shall, after consultation with other members of the Council, appoint members of the advisory committee representing stakeholders. Among other things, the advisory committee shall recommend plans and actions at local, tribal, State, regional, and ecosystem-based levels to achieve the goals and objectives of the Management Plan in section 5 of this order. The advisory committee shall act in cooperation with stakeholders and existing organizations addressing invasive species. The Department of the Interior shall provide the administrative and financial support for the advisory committee.

Sec. 4. Duties of the Invasive Species Council. The Invasive Species Council shall provide national leadership regarding invasive species, and shall:

(a) oversee the implementation of this order and see that the Federal agency activities concerning invasive species are coordinated, complementary, cost-efficient, and effective, relying to the extent feasible and appropriate on existing organizations addressing invasive species, such as the Aquatic Nuisance Species Task Force, the Federal Interagency Committee for the Management of Noxious and Exotic Weeds, and the Committee on Environment and Natural Resources;

(b) encourage planning and action at local, tribal, State, regional, and ecosystem-based levels to achieve the goals and objectives of the Management Plan in section 5 of this order, in cooperation with stakeholders and existing organizations addressing invasive species;

(c) develop recommendations for international cooperation in addressing invasive species;

(d) develop, in consultation with the Council on Environmental Quality, guidance to Federal agencies pursuant to the National Environmental Policy Act on prevention and control of invasive species, including the procurement, use, and maintenance of native species as they affect invasive species;

(e) facilitate development of a coordinated network among Federal agencies to document, evaluate, and monitor impacts from invasive species on the economy, the environment, and human health;

(f) facilitate establishment of a coordinated, up-to-date information-sharing system that utilizes, to the greatest extent practicable, the Internet; this system shall facilitate access to and exchange of information concerning invasive species, including, but not limited to, information on distribution and abundance of invasive species; life histories of such species and invasive characteristics; economic, environmental, and human health impacts; management techniques, and laws and programs for management, research, and public education; and

(g) prepare and issue a national Invasive Species Management Plan as set forth in section 5 of this order.

Sec. 5. Invasive Species Management Plan. (a) Within 18 months after issuance of this order, the Council shall prepare and issue the first edition of a National Invasive Species Management Plan (Management Plan), which shall detail and recommend performance-oriented goals and objectives and specific measures of success for Federal agency efforts concerning invasive species. The Management Plan shall recommend specific objectives and measures for carrying out each of the Federal agency duties established in section 2(a) of this order and shall set forth steps to be taken by the Council to carry out the duties assigned to it under section 4 of this order. The Management Plan shall be developed through a public process and in consultation with Federal agencies and stakeholders.

(b) The first edition of the Management Plan shall include a review of existing and prospective approaches and authorities for preventing the introduction and spread of invasive species, including those for identifying pathways by which invasive species are introduced and for minimizing the risk of introductions via those pathways, and shall identify research needs and recommend measures to minimize the risk that introductions will occur. Such recommended measures shall provide for a science-based process to evaluate risks associated with introduction and spread of invasive species and a coordinated and systematic risk-based process to identify, monitor, and interdict pathways that may be involved in the introduction of invasive species. If recommended measures are not authorized by current law, the Council shall develop and recommend to the President through its Co-Chairs legislative proposals for necessary changes in authority.

(c) The Council shall update the Management Plan biennially and shall concurrently evaluate and report on success in achieving the goals and objectives set forth in the Management Plan. The Management Plan shall identify the personnel, other resources, and additional levels of coordination needed to achieve the Management Plan's identified goals and objectives, and the Council shall provide each edition of the Management Plan and each report on it to the Office of Management and Budget. Within 18 months after measures have been recommended by the Council in any edition of the Management Plan, each Federal agency whose action is required to implement such measures shall either take the action recommended or shall provide the Council with an explanation of why the action is not feasible. The Council shall assess the effectiveness of this order no less than once each 5 years after the order is issued and shall report to the Office of Management and Budget on whether the order should be revised.

Sec. 6. Judicial Review and Administration. (a) This order is intended only to improve the internal management of the executive branch and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any other person.

(b) Executive Order 11987 of May 24, 1977, is hereby revoked.

(c) The requirements of this order do not affect the obligations of Federal agencies under 16 U.S.C. 4713 with respect to ballast water programs.

(d) The requirements of section 2(a)(3) of this order shall not apply to any action of the Department of State or Department of Defense if the Secretary of State or the Secretary of Defense finds that exemption from such requirements is necessary for foreign policy or national security reasons.

#### **Executive Order No. 13148**

Ex. Ord. No. 13148, Apr. 21, 2000, 65 F.R. 24595, which directed Federal agencies to establish strategies that supported environmental leadership programs, policies, and procedures and to implement environmental compliance audit programs and policies that emphasized pollution prevention, was revoked by Ex. Ord. No. 13423, §11(a)(iv), Jan. 24, 2007, 72 F.R. 3923, set out below.

#### **Ex. Ord. No. 13423. Strengthening Federal Environmental, Energy, and Transportation Management**

Ex. Ord. No. 13423, Jan. 24, 2007, 72 F.R. 3919, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to strengthen the environmental, energy, and transportation management of Federal agencies, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the United States that Federal agencies conduct their environmental, transportation, and energy-related activities under the law in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuously improving, efficient, and sustainable manner.

Sec. 2. Goals for Agencies. In implementing the policy set forth in section 1 of this order, the head of each agency shall:

(a) improve energy efficiency and reduce greenhouse gas emissions of the agency, through reduction of energy intensity by (i) 3 percent annually through the end of fiscal year 2015, or (ii) 30 percent by the end of fiscal year 2015, relative to the baseline of the agency's energy use in fiscal year 2003;

(b) ensure that (i) at least half of the statutorily required renewable energy consumed by the agency in a fiscal year comes from new renewable sources, and (ii) to the extent feasible, the agency implements renewable energy generation projects on agency property for agency use;

(c) beginning in FY 2008, reduce water consumption intensity, relative to the baseline of the agency's water consumption in fiscal year 2007, through life-cycle cost-effective measures by 2 percent annually through the end of fiscal year 2015 or 16 percent by the end of fiscal year 2015;

(d) require in agency acquisitions of goods and services (i) use of sustainable environmental practices, including acquisition of biobased, environmentally preferable, energy-efficient, water-efficient, and recycled-content products, and (ii) use of paper of at least 30 percent post-consumer fiber content;

(e) ensure that the agency (i) reduces the quantity of toxic and hazardous chemicals and materials acquired, used, or disposed of by the agency, (ii) increases diversion of solid waste as appropriate, and (iii) maintains cost-effective waste prevention and recycling programs in its facilities;

(f) ensure that (i) new construction and major renovation of agency buildings comply with the Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings set forth in the Federal Leadership in High Performance and Sustainable Buildings Memorandum of Understanding (2006), and (ii) 15 percent of the existing Federal capital asset building inventory of the agency as of the end of fiscal year 2015 incorporates the sustainable practices in the Guiding Principles;

(g) ensure that, if the agency operates a fleet of at least 20 motor vehicles, the agency, relative to agency baselines for fiscal year 2005, (i) reduces the fleet's total consumption of petroleum products by 2 percent annually through the end of fiscal year 2015, (ii) increases the total fuel consumption that is non-petroleum-based by 10 percent annually,

and (iii) uses plug-in hybrid (PIH) vehicles when PIH vehicles are commercially available at a cost reasonably comparable, on the basis of life-cycle cost, to non-PIH vehicles; and

(h) ensure that the agency (i) when acquiring an electronic product to meet its requirements, meets at least 95 percent of those requirements with an Electronic Product Environmental Assessment Tool (EPEAT)-registered electronic product, unless there is no EPEAT standard for such product, (ii) enables the Energy Star feature on agency computers and monitors, (iii) establishes and implements policies to extend the useful life of agency electronic equipment, and (iv) uses environmentally sound practices with respect to disposition of agency electronic equipment that has reached the end of its useful life.

Sec. 3. Duties of Heads of Agencies. In implementing the policy set forth in section 1 of this order, the head of each agency shall:

(a) implement within the agency sustainable practices for (i) energy efficiency, greenhouse gas emissions avoidance or reduction, and petroleum products use reduction, (ii) renewable energy, including bioenergy, (iii) water conservation, (iv) acquisition, (v) pollution and waste prevention and recycling, (vi) reduction or elimination of acquisition and use of toxic or hazardous chemicals, (vii) high performance construction, lease, operation, and maintenance of buildings, (viii) vehicle fleet management, and (ix) electronic equipment management;

(b) implement within the agency environmental management systems (EMS) at all appropriate organizational levels to ensure (i) use of EMS as the primary management approach for addressing environmental aspects of internal agency operations and activities, including environmental aspects of energy and transportation functions, (ii) establishment of agency objectives and targets to ensure implementation of this order, and (iii) collection, analysis, and reporting of information to measure performance in the implementation of this order;

(c) establish within the agency programs for (i) environmental management training, (ii) environmental compliance review and audit, and (iii) leadership awards to recognize outstanding environmental, energy, or transportation management performance in the agency;

(d) within 30 days after the date of this order (i) designate a senior civilian officer of the United States, compensated annually in an amount at or above the amount payable at level IV of the Executive Schedule, to be responsible for implementation of this order within the agency, (ii) report such designation to the Director of the Office of Management and Budget and the Chairman of the Council on Environmental Quality, and (iii) assign the designated official the authority and duty to (A) monitor and report to the head of the agency on agency activities to carry out subsections (a) and (b) of this

section, and (B) perform such other duties relating to the implementation of this order within the agency as the head of the agency deems appropriate;

(e) ensure that contracts entered into after the date of this order for contractor operation of government-owned facilities or vehicles require the contractor to comply with the provisions of this order with respect to such facilities or vehicles to the same extent as the agency would be required to comply if the agency operated the facilities or vehicles;

(f) ensure that agreements, permits, leases, licenses, or other legally-binding obligations between the agency and a tenant or concessionaire entered into after the date of this order require, to the extent the head of the agency determines appropriate, that the tenant or concessionaire take actions relating to matters within the scope of the contract that facilitate the agency's compliance with this order;

(g) provide reports on agency implementation of this order to the Chairman of the Council on such schedule and in such format as the Chairman of the Council may require; and

(h) provide information and assistance to the Director of the Office of Management and Budget, the Chairman of the Council, and the Federal Environmental Executive.

Sec. 4. Additional Duties of the Chairman of the Council on Environmental Quality. In implementing the policy set forth in section 1 of this order, the Chairman of the Council on Environmental Quality:

(a)(i) shall establish a Steering Committee on Strengthening Federal Environmental, Energy, and Transportation Management to advise the Director of the Office of Management and Budget and the Chairman of the Council on the performance of their functions under this order that shall consist exclusively of (A) the Federal Environmental Executive, who shall chair, convene and preside at meetings of, determine the agenda of, and direct the work of, the Steering Committee, and (B) the senior officials designated under section 3(d)(i) of this order, and (ii) may establish subcommittees of the Steering Committee, to assist the Steering Committee in developing the advice of the Steering Committee on particular subjects;

(b) may, after consultation with the Director of the Office of Management and Budget and the Steering Committee, issue instructions to implement this order, other than instructions within the authority of the Director to issue under section 5 of this order; and

(c) shall administer a presidential leadership award program to recognize exceptional and outstanding environmental, energy, or transportation management performance and excellence in agency efforts to implement this order.

Sec. 5. Duties of the Director of the Office of Management and Budget. In implementing the policy set forth in section 1 of this order, the Director of the Office of Management and Budget shall, after consultation with the Chairman of the Council and the Steering Committee, issue instructions to the heads of agencies concerning:

- (a) periodic evaluation of agency implementation of this order;
- (b) budget and appropriations matters relating to implementation of this order;
- (c) implementation of section 2(d) of this order; and
- (d) amendments of the Federal Acquisition Regulation as necessary to implement this order.

Sec. 6. Duties of the Federal Environmental Executive. A Federal Environmental Executive designated by the President shall head the Office of the Federal Environmental Executive, which shall be maintained in the Environmental Protection Agency for funding and administrative purposes. In implementing the policy set forth in section 1 of this order, the Federal Environmental Executive shall:

- (a) monitor, and advise the Chairman of the Council on, performance by agencies of functions assigned by sections 2 and 3 of this order;
- (b) submit a report to the President, through the Chairman of the Council, not less often than once every 2 years, on the activities of agencies to implement this order; and
- (c) advise the Chairman of the Council on the Chairman's exercise of authority granted by subsection 4(c) of this order.

Sec. 7. Limitations. (a) This order shall apply to an agency with respect to the activities, personnel, resources, and facilities of the agency that are located within the United States. The head of an agency may provide that this order shall apply in whole or in part with respect to the activities, personnel, resources, and facilities of the agency that are not located within the United States, if the head of the agency determines that such application is in the interest of the United States.

(b) The head of an agency shall manage activities, personnel, resources, and facilities of the agency that are not located within the United States, and with respect to which the head of the agency has not made a determination under subsection (a) of this section, in a manner consistent with the policy set forth in section 1 of this order to the extent the head of the agency determines practicable.

Sec. 8. Exemption Authority. (a) The Director of National Intelligence may exempt an intelligence activity of the United States, and related personnel, resources, and facilities,

from the provisions of this order, other than this subsection and section 10, to the extent the Director determines necessary to protect intelligence sources and methods from unauthorized disclosure.

(b) The head of an agency may exempt law enforcement activities of that agency, and related personnel, resources, and facilities, from the provisions of this order, other than this subsection and section 10, to the extent the head of an agency determines necessary to protect undercover operations from unauthorized disclosure.

(c)(i) The head of an agency may exempt law enforcement, protective, emergency response, or military tactical vehicle fleets of that agency from the provisions of this order, other than this subsection and section 10.

(ii) Heads of agencies shall manage fleets to which paragraph (i) of this subsection refers in a manner consistent with the policy set forth in section 1 of this order to the extent they determine practicable.

(d) The head of an agency may submit to the President, through the Chairman of the Council, a request for an exemption of an agency activity, and related personnel, resources, and facilities, from this order.

Sec. 9. Definitions. As used in this order:

(a) “agency” means an executive agency as defined in section 105 of title 5, United States Code, excluding the Government Accountability Office;

(b) “Chairman of the Council” means the Chairman of the Council on Environmental Quality, including in the Chairman's capacity as Director of the Office of Environmental Quality;

(c) “Council” means the Council on Environmental Quality;

(d) “environmental” means environmental aspects of internal agency operations and activities, including those environmental aspects related to energy and transportation functions;

(e) “greenhouse gases” means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride;

(f) “life-cycle cost-effective” means the life-cycle costs of a product, project, or measure are estimated to be equal to or less than the base case (i.e., current or standard practice or product);



(g) “new renewable sources” means sources of renewable energy placed into service after January 1, 1999;

(h) “renewable energy” means energy produced by solar, wind, biomass, landfill gas, ocean (including tidal, wave, current and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project;

(i) “energy intensity” means energy consumption per square foot of building space, including industrial or laboratory facilities;

(j) “Steering Committee” means the Steering Committee on Strengthening Federal Environmental, Energy, and Transportation Management established under subsection 4(b) of this order;

(k) “sustainable” means to create and maintain conditions, under which humans and nature can exist in productive harmony, that permit fulfilling the social, economic, and other requirements of present and future generations of Americans; and

(l) “United States” when used in a geographical sense, means the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Northern Mariana Islands, and associated territorial waters and airspace.

Sec. 10. General Provisions. (a) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(c) This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees or agents, or any other person.

Sec. 11. Revocations; Conforming Provisions. (a) The following are revoked:

(i) Executive Order 13101 of September 14, 1998;

(ii) Executive Order 13123 of June 3, 1999;

(iii) Executive Order 13134 of August 12, 1999, as amended;

(iv) Executive Order 13148 of April 21, 2000; and

(v) Executive Order 13149 of April 21, 2000.

(b) In light of subsection 317(e) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107), not later than January 1 of each year through and including 2010, the Secretary of Defense shall submit to the Senate and the House of Representatives a report regarding progress made toward achieving the energy efficiency goals of the Department of Defense.

(c) [Amended Ex. Ord. No. 13327, set out as a note under section 121 of Title 40, Public Buildings, Property, and Works.]

**Ex. Ord. No. 13514. Federal Leadership in Environmental, Energy, and Economic Performance**

Ex. Ord. No. 13514, Oct. 5, 2009, 74 F.R. 52117, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to establish an integrated strategy towards sustainability in the Federal Government and to make reduction of greenhouse gas emissions a priority for Federal agencies, it is hereby ordered as follows:

Section 1. Policy. In order to create a clean energy economy that will increase our Nation's prosperity, promote energy security, protect the interests of taxpayers, and safeguard the health of our environment, the Federal Government must lead by example. It is therefore the policy of the United States that Federal agencies shall increase energy efficiency; measure, report, and reduce their greenhouse gas emissions from direct and indirect activities; conserve and protect water resources through efficiency, reuse, and stormwater management; eliminate waste, recycle, and prevent pollution; leverage agency acquisitions to foster markets for sustainable technologies and environmentally preferable materials, products, and services; design, construct, maintain, and operate high performance sustainable buildings in sustainable locations; strengthen the vitality and livability of the communities in which Federal facilities are located; and inform Federal employees about and involve them in the achievement of these goals.

It is further the policy of the United States that to achieve these goals and support their respective missions, agencies shall prioritize actions based on a full accounting of both economic and social benefits and costs and shall drive continuous improvement by annually evaluating performance, extending or expanding projects that have net benefits, and reassessing or discontinuing under-performing projects.

Finally, it is also the policy of the United States that agencies' efforts and outcomes in implementing this order shall be transparent and that agencies shall therefore disclose

results associated with the actions taken pursuant to this order on publicly available Federal websites.

Sec. 2. Goals for Agencies. In implementing the policy set forth in section 1 of this order, and preparing and implementing the Strategic Sustainability Performance Plan called for in section 8 of this order, the head of each agency shall:

(a) within 90 days of the date of this order, establish and report to the Chair of the Council on Environmental Quality (CEQ Chair) and the Director of the Office of Management and Budget (OMB Director) a percentage reduction target for agency-wide reductions of scope 1 and 2 greenhouse gas emissions in absolute terms by fiscal year 2020, relative to a fiscal year 2008 baseline of the agency's scope 1 and 2 greenhouse gas emissions. Where appropriate, the target shall exclude direct emissions from excluded vehicles and equipment and from electric power produced and sold commercially to other parties in the course of regular business. This target shall be subject to review and approval by the CEQ Chair in consultation with the OMB Director under section 5 of this order. In establishing the target, the agency head shall consider reductions associated with:

(i) reducing energy intensity in agency buildings;

(ii) increasing agency use of renewable energy and implementing renewable energy generation projects on agency property; and

(iii) reducing the use of fossil fuels by:

(A) using low greenhouse gas emitting vehicles including alternative fuel vehicles;

(B) optimizing the number of vehicles in the agency fleet; and

(C) reducing, if the agency operates a fleet of at least 20 motor vehicles, the agency fleet's total consumption of petroleum products by a minimum of 2 percent annually through the end of fiscal year 2020, relative to a baseline of fiscal year 2005;

(b) within 240 days of the date of this order and concurrent with submission of the Strategic Sustainability Performance Plan as described in section 8 of this order, establish and report to the CEQ Chair and the OMB Director a percentage reduction target for reducing agency-wide scope 3 greenhouse gas emissions in absolute terms by fiscal year 2020, relative to a fiscal year 2008 baseline of agency scope 3 emissions. This target shall be subject to review and approval by the CEQ Chair in consultation with the OMB Director under section 5 of this order. In establishing the target, the agency head shall consider reductions associated with:

(i) pursuing opportunities with vendors and contractors to address and incorporate incentives to reduce greenhouse gas emissions (such as changes to manufacturing, utility or delivery services, modes of transportation used, or other changes in supply chain activities);

(ii) implementing strategies and accommodations for transit, travel, training, and conferencing that actively support lower-carbon commuting and travel by agency staff;

(iii) greenhouse gas emission reductions associated with pursuing other relevant goals in this section; and

(iv) developing and implementing innovative policies and practices to address scope 3 greenhouse gas emissions unique to agency operations;

(c) establish and report to the CEQ Chair and OMB Director a comprehensive inventory of absolute greenhouse gas emissions, including scope 1, scope 2, and specified scope 3 emissions (i) within 15 months of the date of this order for fiscal year 2010, and (ii) thereafter, annually at the end of January, for the preceding fiscal year.

(d) improve water use efficiency and management by:

(i) reducing potable water consumption intensity by 2 percent annually through fiscal year 2020, or 26 percent by the end of fiscal year 2020, relative to a baseline of the agency's water consumption in fiscal year 2007, by implementing water management strategies including water-efficient and low-flow fixtures and efficient cooling towers;

(ii) reducing agency industrial, landscaping, and agricultural water consumption by 2 percent annually or 20 percent by the end of fiscal year 2020 relative to a baseline of the agency's industrial, landscaping, and agricultural water consumption in fiscal year 2010;

(iii) consistent with State law, identifying, promoting, and implementing water reuse strategies that reduce potable water consumption; and

(iv) implementing and achieving the objectives identified in the stormwater management guidance referenced in section 14 of this order;

(e) promote pollution prevention and eliminate waste by:

(i) minimizing the generation of waste and pollutants through source reduction;

(ii) diverting at least 50 percent of non-hazardous solid waste, excluding construction and demolition debris, by the end of fiscal year 2015;

- (iii) diverting at least 50 percent of construction and demolition materials and debris by the end of fiscal year 2015;
  - (iv) reducing printing paper use and acquiring uncoated printing and writing paper containing at least 30 percent postconsumer fiber;
  - (v) reducing and minimizing the quantity of toxic and hazardous chemicals and materials acquired, used, or disposed of;
  - (vi) increasing diversion of compostable and organic material from the waste stream;
  - (vii) implementing integrated pest management and other appropriate landscape management practices;
  - (viii) increasing agency use of acceptable alternative chemicals and processes in keeping with the agency's procurement policies;
  - (ix) decreasing agency use of chemicals where such decrease will assist the agency in achieving greenhouse gas emission reduction targets under section 2(a) and (b) of this order; and
  - (x) reporting in accordance with the requirements of sections 301 through 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 et seq.);
- (f) advance regional and local integrated planning by:
- (i) participating in regional transportation planning and recognizing existing community transportation infrastructure;
  - (ii) aligning Federal policies to increase the effectiveness of local planning for energy choices such as locally generated renewable energy;
  - (iii) ensuring that planning for new Federal facilities or new leases includes consideration of sites that are pedestrian friendly, near existing employment centers, and accessible to public transit, and emphasizes existing central cities and, in rural communities, existing or planned town centers;
  - (iv) identifying and analyzing impacts from energy usage and alternative energy sources in all Environmental Impact Statements and Environmental Assessments for proposals for new or expanded Federal facilities under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.); and

- (v) coordinating with regional programs for Federal, State, tribal, and local ecosystem, watershed, and environmental management;
- (g) implement high performance sustainable Federal building design, construction, operation and management, maintenance, and deconstruction including by:
  - (i) beginning in 2020 and thereafter, ensuring that all new Federal buildings that enter the planning process are designed to achieve zero-net-energy by 2030;
  - (ii) ensuring that all new construction, major renovation, or repair and alteration of Federal buildings complies with the Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings, (Guiding Principles);
  - (iii) ensuring that at least 15 percent of the agency's existing buildings (above 5,000 gross square feet) and building leases (above 5,000 gross square feet) meet the Guiding Principles by fiscal year 2015 and that the agency makes annual progress toward 100-percent conformance with the Guiding Principles for its building inventory;
  - (iv) pursuing cost-effective, innovative strategies, such as highly reflective and vegetated roofs, to minimize consumption of energy, water, and materials;
  - (v) managing existing building systems to reduce the consumption of energy, water, and materials, and identifying alternatives to renovation that reduce existing assets' deferred maintenance costs;
  - (vi) when adding assets to the agency's real property inventory, identifying opportunities to consolidate and dispose of existing assets, optimize the performance of the agency's real-property portfolio, and reduce associated environmental impacts; and
  - (vii) ensuring that rehabilitation of federally owned historic buildings utilizes best practices and technologies in retrofitting to promote long-term viability of the buildings;
- (h) advance sustainable acquisition to ensure that 95 percent of new contract actions including task and delivery orders, for products and services with the exception of acquisition of weapon systems, are energy-efficient (Energy Star or Federal Energy Management Program (FEMP) designated), water-efficient, biobased, environmentally preferable (e.g., Electronic Product Environmental Assessment Tool (EPEAT) certified), non-ozone depleting, contain recycled content, or are non-toxic or less-toxic alternatives, where such products and services meet agency performance requirements;
- (i) promote electronics stewardship, in particular by:
  - (i) ensuring procurement preference for EPEAT-registered electronic products;

- (ii) establishing and implementing policies to enable power management, duplex printing, and other energy-efficient or environmentally preferable features on all eligible agency electronic products;
- (iii) employing environmentally sound practices with respect to the agency's disposition of all agency excess or surplus electronic products;
- (iv) ensuring the procurement of Energy Star and FEMP designated electronic equipment;
- (v) implementing best management practices for energy-efficient management of servers and Federal data centers; and
- (j) sustain environmental management, including by:
  - (i) continuing implementation of formal environmental management systems at all appropriate organizational levels; and
  - (ii) ensuring these formal systems are appropriately implemented and maintained to achieve the performance necessary to meet the goals of this order.

Sec. 3. Steering Committee on Federal Sustainability. The OMB Director and the CEQ Chair shall:

- (a) establish an interagency Steering Committee (Steering Committee) on Federal Sustainability composed of the Federal Environmental Executive, designated under section 6 of Executive Order 13423 of January 24, 2007, and Agency Senior Sustainability Officers, designated under section 7 of this order, and that shall:
  - (i) serve in the dual capacity of the Steering Committee on Strengthening Federal Environmental, Energy, and Transportation Management designated by the CEQ Chair pursuant to section 4 of Executive Order 13423;
  - (ii) advise the OMB Director and the CEQ Chair on implementation of this order;
  - (iii) facilitate the implementation of each agency's Strategic Sustainability Performance Plan; and
  - (iv) share information and promote progress towards the goals of this order;
- (b) enlist the support of other organizations within the Federal Government to assist the Steering Committee in addressing the goals of this order;

- (c) establish and disband, as appropriate, interagency subcommittees of the Steering Committee, to assist the Steering Committee in carrying out its responsibilities;
- (d) determine appropriate Federal actions to achieve the policy of section 1 and the goals of section 2 of this order;
- (e) ensure that Federal agencies are held accountable for conformance with the requirements of this order; and
- (f) in coordination with the Department of Energy's Federal Energy Management Program and the Office of the Federal Environmental Executive designated under section 6 of Executive Order 13423, provide guidance and assistance to facilitate the development of agency targets for greenhouse gas emission reductions required under subsections 2(a) and (b) of this order.

Sec. 4. Additional Duties of the Director of the Office of Management and Budget. In addition to the duties of the OMB Director specified elsewhere in this order, the OMB Director shall:

- (a) review and approve each agency's multi-year Strategic Sustainability Performance Plan under section 8 of this order and each update of the Plan. The Director shall, where feasible, review each agency's Plan concurrently with OMB's review and evaluation of the agency's budget request;
- (b) prepare scorecards providing periodic evaluation of Federal agency performance in implementing this order and publish scorecard results on a publicly available website; and
- (c) approve and issue instructions to the heads of agencies concerning budget and appropriations matters relating to implementation of this order.

Sec. 5. Additional Duties of the Chair of the Council on Environmental Quality. In addition to the duties of the CEQ Chair specified elsewhere in this order, the CEQ Chair shall:

- (a) issue guidance for greenhouse gas accounting and reporting required under section 2 of this order;
- (b) issue instructions to implement this order, in addition to instructions within the authority of the OMB Director to issue under subsection 4(c) of this order;
- (c) review and approve each agency's targets, in consultation with the OMB Director, for agency-wide reductions of greenhouse gas emissions under section 2 of this order;



- (d) prepare, in coordination with the OMB Director, streamlined reporting metrics to determine each agency's progress under section 2 of this order;
- (e) review and evaluate each agency's multi-year Strategic Sustainability Performance Plan under section 8 of this order and each update of the Plan;
- (f) assess agency progress toward achieving the goals and policies of this order, and provide its assessment of the agency's progress to the OMB Director;
- (g) within 120 days of the date of this order, provide the President with an aggregate Federal Government-wide target for reducing scope 1 and 2 greenhouse gas emissions in absolute terms by fiscal year 2020 relative to a fiscal year 2008 baseline;
- (h) within 270 days of the date of this order, provide the President with an aggregate Federal Government-wide target for reducing scope 3 greenhouse gas emissions in absolute terms by fiscal year 2020 relative to a fiscal year 2008 baseline;
- (i) establish and disband, as appropriate, interagency working groups to provide recommendations to the CEQ for areas of Federal agency operational and managerial improvement associated with the goals of this order; and
- (j) administer the Presidential leadership awards program, established under subsection 4(c) of Executive Order 13423, to recognize exceptional and outstanding agency performance with respect to achieving the goals of this order and to recognize extraordinary innovation, technologies, and practices employed to achieve the goals of this order.

Sec. 6. Duties of the Federal Environmental Executive. The Federal Environmental Executive designated by the President to head the Office of the Federal Environmental Executive, pursuant to section 6 of Executive Order 13423, shall:

- (a) identify strategies and tools to assist Federal implementation efforts under this order, including through the sharing of best practices from successful Federal sustainability efforts; and
- (b) monitor and advise the CEQ Chair and the OMB Director on the agencies' implementation of this order and their progress in achieving the order's policies and goals.

Sec. 7. Agency Senior Sustainability Officers. (a) Within 30 days of the date of this order, the head of each agency shall designate from among the agency's senior management officials a Senior Sustainability Officer who shall be accountable for agency conformance with the requirements of this order; and shall report such designation to the OMB Director and the CEQ Chair.

(b) The Senior Sustainability Officer for each agency shall perform the functions of the senior agency official designated by the head of each agency pursuant to section 3(d)(i) of Executive Order 13423 and shall be responsible for:

(i) preparing the targets for agency-wide reductions and the inventory of greenhouse gas emissions required under subsections 2(a), (b), and (c) of this order;

(ii) within 240 days of the date of this order, and annually thereafter, preparing and submitting to the CEQ Chair and the OMB Director, for their review and approval, a multi-year Strategic Sustainability Performance Plan (Sustainability Plan or Plan) as described in section 8 of this order;

(iii) preparing and implementing the approved Plan in coordination with appropriate offices and organizations within the agency including the General Counsel, Chief Information Officer, Chief Acquisition Officer, Chief Financial Officer, and Senior Real Property Officers, and in coordination with other agency plans, policies, and activities;

(iv) monitoring the agency's performance and progress in implementing the Plan, and reporting the performance and progress to the CEQ Chair and the OMB Director, on such schedule and in such format as the Chair and the Director may require; and

(v) reporting annually to the head of the agency on the adequacy and effectiveness of the agency's Plan in implementing this order.

Sec. 8. Agency Strategic Sustainability Performance Plan. Each agency shall develop, implement, and annually update an integrated Strategic Sustainability Performance Plan that will prioritize agency actions based on lifecycle return on investment. Each agency Plan and update shall be subject to approval by the OMB Director under section 4 of this order. With respect to the period beginning in fiscal year 2011 and continuing through the end of fiscal year 2021, each agency Plan shall:

(a) include a policy statement committing the agency to compliance with environmental and energy statutes, regulations, and Executive Orders;

(b) achieve the sustainability goals and targets, including greenhouse gas reduction targets, established under section 2 of this order;

(c) be integrated into the agency's strategic planning and budget process, including the agency's strategic plan under section 3 of the Government Performance and Results Act of 1993, as amended (5 U.S.C. 306);

(d) identify agency activities, policies, plans, procedures, and practices that are relevant to the agency's implementation of this order, and where necessary, provide for

development and implementation of new or revised policies, plans, procedures, and practices;

(e) identify specific agency goals, a schedule, milestones, and approaches for achieving results, and quantifiable metrics for agency implementation of this order;

(f) take into consideration environmental measures as well as economic and social benefits and costs in evaluating projects and activities based on lifecycle return on investment;

(g) outline planned actions to provide information about agency progress and performance with respect to achieving the goals of this order on a publicly available Federal website;

(h) incorporate actions for achieving progress metrics identified by the OMB Director and the CEQ Chair;

(i) evaluate agency climate-change risks and vulnerabilities to manage the effects of climate change on the agency's operations and mission in both the short and long term; and

(j) identify in annual updates opportunities for improvement and evaluation of past performance in order to extend or expand projects that have net lifecycle benefits, and reassess or discontinue under-performing projects.

Sec. 9. Recommendations for Greenhouse Gas Accounting and Reporting. The Department of Energy, through its Federal Energy Management Program, and in coordination with the Environmental Protection Agency, the Department of Defense, the General Services Administration, the Department of the Interior, the Department of Commerce, and other agencies as appropriate, shall:

(a) within 180 days of the date of this order develop and provide to the CEQ Chair recommended Federal greenhouse gas reporting and accounting procedures for agencies to use in carrying out their obligations under subsections 2(a), (b), and (c) of this order, including procedures that will ensure that agencies:

(i) accurately and consistently quantify and account for greenhouse gas emissions from all scope 1, 2, and 3 sources, using accepted greenhouse gas accounting and reporting principles, and identify appropriate opportunities to revise the fiscal year 2008 baseline to address significant changes in factors affecting agency emissions such as reorganization and improvements in accuracy of data collection and estimation procedures or other major changes that would otherwise render the initial baseline information unsuitable;

(ii) consider past Federal agency efforts to reduce greenhouse gas emissions; and

(iii) consider and account for sequestration and emissions of greenhouse gases resulting from Federal land management practices;

(b) within 1 year of the date of this order, to ensure consistent and accurate reporting under this section, provide electronic accounting and reporting capability for the Federal greenhouse gas reporting procedures developed under subsection (a) of this section, and to the extent practicable, ensure compatibility between this capability and existing Federal agency reporting systems; and

(c) every 3 years from the date of the CEQ Chair's issuance of the initial version of the reporting guidance, and as otherwise necessary, develop and provide recommendations to the CEQ Chair for revised Federal greenhouse gas reporting procedures for agencies to use in implementing subsections 2(a), (b), and (c) of this order.

Sec. 10. Recommendations for Sustainable Locations for Federal Facilities. Within 180 days of the date of this order, the Department of Transportation, in accordance with its Sustainable Partnership Agreement with the Department of Housing and Urban Development and the Environmental Protection Agency, and in coordination with the General Services Administration, the Department of Homeland Security, the Department of Defense, and other agencies as appropriate, shall:

(a) review existing policies and practices associated with site selection for Federal facilities; and

(b) provide recommendations to the CEQ Chair regarding sustainable location strategies for consideration in Sustainability Plans. The recommendations shall be consistent with principles of sustainable development including prioritizing central business district and rural town center locations, prioritizing sites well served by transit, including site design elements that ensure safe and convenient pedestrian access, consideration of transit access and proximity to housing affordable to a wide range of Federal employees, adaptive reuse or renovation of buildings, avoidance of development of sensitive land resources, and evaluation of parking management strategies.

Sec. 11. Recommendations for Federal Local Transportation Logistics. Within 180 days of the date of this order, the General Services Administration, in coordination with the Department of Transportation, the Department of the Treasury, the Department of Energy, the Office of Personnel Management, and other agencies as appropriate, shall review current policies and practices associated with use of public transportation by Federal personnel, Federal shuttle bus and vehicle transportation routes supported by multiple Federal agencies, and use of alternative fuel vehicles in Federal shuttle bus fleets, and shall provide recommendations to the CEQ Chair on how these policies and

practices could be revised to support the implementation of this order and the achievement of its policies and goals.

Sec. 12. Guidance for Federal Fleet Management. Within 180 days of the date of this order, the Department of Energy, in coordination with the General Services Administration, shall issue guidance on Federal fleet management that addresses the acquisition of alternative fuel vehicles and use of alternative fuels; the use of biodiesel blends in diesel vehicles; the acquisition of electric vehicles for appropriate functions; improvement of fleet fuel economy; the optimizing of fleets to the agency mission; petroleum reduction strategies, such as the acquisition of low greenhouse gas emitting vehicles and the reduction of vehicle miles traveled; and the installation of renewable fuel pumps at Federal fleet fueling centers.

Sec. 13. Recommendations for Vendor and Contractor Emissions. Within 180 days of the date of this order, the General Services Administration, in coordination with the Department of Defense, the Environmental Protection Agency, and other agencies as appropriate, shall review and provide recommendations to the CEQ Chair and the Administrator of OMB's Office of Federal Procurement Policy regarding the feasibility of working with the Federal vendor and contractor community to provide information that will assist Federal agencies in tracking and reducing scope 3 greenhouse gas emissions related to the supply of products and services to the Government. These recommendations should consider the potential impacts on the procurement process, and the Federal vendor and contractor community including small businesses and other socioeconomic procurement programs. Recommendations should also explore the feasibility of:

- (a) requiring vendors and contractors to register with a voluntary registry or organization for reporting greenhouse gas emissions;
- (b) requiring contractors, as part of a new or revised registration under the Central Contractor Registration or other tracking system, to develop and make available its greenhouse gas inventory and description of efforts to mitigate greenhouse gas emissions;
- (c) using Federal Government purchasing preferences or other incentives for products manufactured using processes that minimize greenhouse gas emissions; and
- (d) other options for encouraging sustainable practices and reducing greenhouse gas emissions.

Sec. 14. Stormwater Guidance for Federal Facilities. Within 60 days of the date of this order, the Environmental Protection Agency, in coordination with other Federal agencies as appropriate, shall issue guidance on the implementation of section 438 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17094).

Sec. 15. Regional Coordination. Within 180 days of the date of this order, the Federal Environmental Executive shall develop and implement a regional implementation plan to support the goals of this order taking into account energy and environmental priorities of particular regions of the United States.

Sec. 16. Agency Roles in Support of Federal Adaptation Strategy. In addition to other roles and responsibilities of agencies with respect to environmental leadership as specified in this order, the agencies shall participate actively in the interagency Climate Change Adaptation Task Force, which is already engaged in developing the domestic and international dimensions of a U.S. strategy for adaptation to climate change, and shall develop approaches through which the policies and practices of the agencies can be made compatible with and reinforce that strategy. Within 1 year of the date of this order the CEQ Chair shall provide to the President, following consultation with the agencies and the Climate Change Adaptation Task Force, as appropriate, a progress report on agency actions in support of the national adaptation strategy and recommendations for any further such measures as the CEQ Chair may deem necessary.

Sec. 17. Limitations. (a) This order shall apply to an agency with respect to the activities, personnel, resources, and facilities of the agency that are located within the United States. The head of an agency may provide that this order shall apply in whole or in part with respect to the activities, personnel, resources, and facilities of the agency that are not located within the United States, if the head of the agency determines that such application is in the interest of the United States.

(b) The head of an agency shall manage activities, personnel, resources, and facilities of the agency that are not located within the United States, and with respect to which the head of the agency has not made a determination under subsection (a) of this section, in a manner consistent with the policy set forth in section 1 of this order to the extent the head of the agency determines practicable.

Sec. 18. Exemption Authority.

(a) The Director of National Intelligence may exempt an intelligence activity of the United States, and related personnel, resources, and facilities, from the provisions of this order, other than this subsection and section 20, to the extent the Director determines necessary to protect intelligence sources and methods from unauthorized disclosure.

(b) The head of an agency may exempt law enforcement activities of that agency, and related personnel, resources, and facilities, from the provisions of this order, other than this subsection and section 20, to the extent the head of an agency determines necessary to protect undercover operations from unauthorized disclosure.

(c)(i) The head of an agency may exempt law enforcement, protective, emergency response, or military tactical vehicle fleets of that agency from the provisions of this order, other than this subsection and section 20.

(ii) Heads of agencies shall manage fleets to which paragraph (i) of this subsection refers in a manner consistent with the policy set forth in section 1 of this order to the extent they determine practicable.

(d) The head of an agency may exempt particular agency activities and facilities from the provisions of this order, other than this subsection and section 20, where it is in the interest of national security. If the head of an agency issues an exemption under this section, the agency must notify the CEQ Chair in writing within 30 days of issuance of the exemption under this subsection. To the maximum extent practicable, and without compromising national security, each agency shall strive to comply with the purposes, goals, and implementation steps in this order.

(e) The head of an agency may submit to the President, through the CEQ Chair, a request for an exemption of an agency activity, and related personnel, resources, and facilities, from this order.

Sec. 19. Definitions. As used in this order:

(a) “absolute greenhouse gas emissions” means total greenhouse gas emissions without normalization for activity levels and includes any allowable consideration of sequestration;

(b) “agency” means an executive agency as defined in section 105 of title 5, United States Code, excluding the Government Accountability Office;

(c) “alternative fuel vehicle” means vehicles defined by section 301 of the Energy Policy Act of 1992, as amended (42 U.S.C. 13211), and otherwise includes electric fueled vehicles, hybrid electric vehicles, plug-in hybrid electric vehicles, dedicated alternative fuel vehicles, dual fueled alternative fuel vehicles, qualified fuel cell motor vehicles, advanced lean burn technology motor vehicles, self-propelled vehicles such as bicycles and any other alternative fuel vehicles that are defined by statute;

(d) “construction and demolition materials and debris” means materials and debris generated during construction, renovation, demolition, or dismantling of all structures and buildings and associated infrastructure;

(e) “divert” and “diverting” means redirecting materials that might otherwise be placed in the waste stream to recycling or recovery, excluding diversion to waste-to-energy facilities;

- (f) “energy intensity” means energy consumption per square foot of building space, including industrial or laboratory facilities;
- (g) “environmental” means environmental aspects of internal agency operations and activities, including those aspects related to energy and transportation functions;
- (h) “excluded vehicles and equipment” means any vehicle, vessel, aircraft, or non-road equipment owned or operated by an agency of the Federal Government that is used in:
- (i) combat support, combat service support, tactical or relief operations, or training for such operations;
- (ii) Federal law enforcement (including protective service and investigation);
- (iii) emergency response (including fire and rescue); or
- (iv) spaceflight vehicles (including associated ground-support equipment);
- (i) “greenhouse gases” means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride;
- (j) “renewable energy” means energy produced by solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project;
- (k) “scope 1, 2, and 3” mean;
- (i) scope 1: direct greenhouse gas emissions from sources that are owned or controlled by the Federal agency;
- (ii) scope 2: direct greenhouse gas emissions resulting from the generation of electricity, heat, or steam purchased by a Federal agency; and
- (iii) scope 3: greenhouse gas emissions from sources not owned or directly controlled by a Federal agency but related to agency activities such as vendor supply chains, delivery services, and employee travel and commuting;
- (l) “sustainability” and “sustainable” mean to create and maintain conditions, under which humans and nature can exist in productive harmony, that permit fulfilling the social, economic, and other requirements of present and future generations;



(m) “United States” means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Northern Mariana Islands, and associated territorial waters and airspace;

(n) “water consumption intensity” means water consumption per square foot of building space; and

(o) “zero-net-energy building” means a building that is designed, constructed, and operated to require a greatly reduced quantity of energy to operate, meet the balance of energy needs from sources of energy that do not produce greenhouse gases, and therefore result in no net emissions of greenhouse gases and be economically viable.

#### Sec. 20. General Provisions.

(a) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect the functions of the OMB Director relating to budgetary, administrative, or legislative proposals.

(c) This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Barack Obama.

### **SUBCHAPTER I—POLICIES AND GOALS**

#### **§4331. Congressional declaration of national environmental policy**

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(Pub. L. 91–190, title I, §101, Jan. 1, 1970, 83 Stat. 852.)

### **Commission on Population Growth and the American Future**

Pub. L. 91–213, §§1–9, Mar. 16, 1970, 84 Stat. 67–69, established the Commission on Population Growth and the American Future to conduct and sponsor such studies and research and make such recommendations as might be necessary to provide information and education to all levels of government in the United States, and to our people regarding a broad range of problems associated with population growth and their implications for America's future; prescribed the composition of the Commission; provided for the appointment of its members, and the designation of a Chairman and Vice Chairman; required a majority of the members of the Commission to constitute a quorum, but allowed a lesser number to conduct hearings; prescribed the compensation of members of the Commission; required the Commission to conduct an inquiry into certain prescribed aspects of population growth in the United States and its foreseeable social consequences; provided for the appointment of an Executive Director and other

personnel and prescribed their compensation; authorized the Commission to enter into contracts with public agencies, private firms, institutions, and individuals for the conduct of research and surveys, the preparation of reports, and other activities necessary to the discharge of its duties, and to request from any Federal department or agency any information and assistance it deems necessary to carry out its functions; required the General Services Administration to provide administrative services for the Commission on a reimbursable basis; required the Commission to submit an interim report to the President and the Congress one year after it was established and to submit its final report two years after Mar. 16, 1970; terminated the Commission sixty days after the date of the submission of its final report; and authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as might be necessary to carry out the provisions of Pub. L. 91-213.

**Executive Order No. 11507**

Ex. Ord. No. 11507, eff. Feb. 4, 1970, 35 F.R. 2573, which related to prevention, control, and abatement of air and water pollution at federal facilities was superseded by Ex. Ord. No. 11752, eff. Dec. 17, 1973, 38 F.R. 34793, formerly set out below.

**Executive Order No. 11752**

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, which related to the prevention, control, and abatement of environmental pollution at Federal facilities, was revoked by Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of this title.

**§4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts**

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, and shall accompany the proposal through the existing agency review processes;

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

- (i) the State agency or official has statewide jurisdiction and has the responsibility for such action,
- (ii) the responsible Federal official furnishes guidance and participates in such preparation,
- (iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and
- (iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such

impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this chapter; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.<sup>1</sup>

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by subchapter II of this chapter.

(Pub. L. 91–190, title I, §102, Jan. 1, 1970, 83 Stat. 853; Pub. L. 94–83, Aug. 9, 1975, 89 Stat. 424.)

### **Amendments**

**1975**—Subpars. (D) to (I). Pub. L. 94–83 added subpar. (D) and redesignated former subpars. (D) to (H) as (E) to (I), respectively.

### **Certain Commercial Space Launch Activities**

Pub. L. 104–88, title IV, §401, Dec. 29, 1995, 109 Stat. 955, provided that: The licensing of a launch vehicle or launch site operator (including any amendment, extension, or renewal of the license) under chapter 701 of title 49, United States Code, shall not be considered a major Federal action for purposes of section 102(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) if—

- (1) the Department of the Army has issued a permit for the activity; and
- (2) the Army Corps of Engineers has found that the activity has no significant impact.

**Ex. Ord. No. 13352. Facilitation of Cooperative Conservation**

Ex. Ord. No. 13352, Aug. 26, 2004, 69 F.R. 52989, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. The purpose of this order is to ensure that the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local participation in Federal decisionmaking, in accordance with their respective agency missions, policies, and regulations.

Sec. 2. Definition. As used in this order, the term “cooperative conservation” means actions that relate to use, enhancement, and enjoyment of natural resources, protection of the environment, or both, and that involve collaborative activity among Federal, State, local, and tribal governments, private for-profit and nonprofit institutions, other nongovernmental entities and individuals.

Sec. 3. Federal Activities. To carry out the purpose of this order, the Secretaries of the Interior, Agriculture, Commerce, and Defense and the Administrator of the Environmental Protection Agency shall, to the extent permitted by law and subject to the availability of appropriations and in coordination with each other as appropriate:

(a) carry out the programs, projects, and activities of the agency that they respectively head that implement laws relating to the environment and natural resources in a manner that:

(i) facilitates cooperative conservation;

(ii) takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land and other natural resources;

(iii) properly accommodates local participation in Federal decisionmaking; and

(iv) provides that the programs, projects, and activities are consistent with protecting public health and safety;

(b) report annually to the Chairman of the Council on Environmental Quality on actions taken to implement this order; and

(c) provide funding to the Office of Environmental Quality Management Fund (42 U.S.C. 4375) for the Conference for which section 4 of this order provides.

Sec. 4. White House Conference on Cooperative Conservation. The Chairman of the Council on Environmental Quality shall, to the extent permitted by law and subject to the availability of appropriations:

(a) convene not later than 1 year after the date of this order, and thereafter at such times as the Chairman deems appropriate, a White House Conference on Cooperative Conservation (Conference) to facilitate the exchange of information and advice relating to (i) cooperative conservation and (ii) means for achievement of the purpose of this order; and

(b) ensure that the Conference obtains information in a manner that seeks from Conference participants their individual advice and does not involve collective judgment or consensus advice or deliberation.

Sec. 5. General Provision. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities or entities, its officers, employees or agents, or any other person.

George W. Bush.

<sup>1</sup> So in original. The period probably should be a semicolon.

#### **§4333. Conformity of administrative procedures to national environmental policy**

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter.

(Pub. L. 91-190, title I, §103, Jan. 1, 1970, 83 Stat. 854.)

#### **§4334. Other statutory obligations of agencies**

Nothing in section 4332 or 4333 of this title shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

(Pub. L. 91–190, title I, §104, Jan. 1, 1970, 83 Stat. 854.)

### **§4335. Efforts supplemental to existing authorizations**

The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of Federal agencies.

(Pub. L. 91–190, title I, §105, Jan. 1, 1970, 83 Stat. 854.)

## **SUBCHAPTER II—COUNCIL ON ENVIRONMENTAL QUALITY**

### **§4341. Omitted**

#### **Codification**

Section, Pub. L. 91–190, title II, §201, Jan. 1, 1970, 83 Stat. 854, which required the President to transmit to Congress annually an Environmental Quality Report, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 1 on page 41 of House Document No. 103–7.

### **§4342. Establishment; membership; Chairman; appointments**

There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the “Council”). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

(Pub. L. 91–190, title II, §202, Jan. 1, 1970, 83 Stat. 854.)



### **Council on Environmental Quality; Reduction of Members**

Provisions stating that notwithstanding this section, the Council was to consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council, were contained in the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Pub. L. 109–54, title III, Aug. 2, 2005, 119 Stat. 543, and were repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 108–447, div. I, title III, Dec. 8, 2004, 118 Stat. 3332.

Pub. L. 108–199, div. G, title III, Jan. 23, 2004, 118 Stat. 408.

Pub. L. 108–7, div. K, title III, Feb. 20, 2003, 117 Stat. 514.

Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 686.

Pub. L. 106–377, §1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A–45.

Pub. L. 106–74, title III, Oct. 20, 1999, 113 Stat. 1084.

Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2500.

Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1375.

#### **§4343. Employment of personnel, experts and consultants**

(a) The Council may employ such officers and employees as may be necessary to carry out its functions under this chapter. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this chapter, in accordance with section 3109 of title 5 (but without regard to the last sentence thereof).

(b) Notwithstanding section 1342 of title 31, the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.

(Pub. L. 91–190, title II, §203, Jan. 1, 1970, 83 Stat. 855; Pub. L. 94–52, §2, July 3, 1975, 89 Stat. 258.)

#### **References in Text**

The last sentence of section 3109 of title 5, referred to in subsec. (a), probably means the last sentence of section 3109(b) of title 5, which was the last sentence of that section when the reference was enacted. Since then, section 3109 of title 5 has been amended to add subsecs. (c) to (e) at the end.

### **Codification**

In subsec. (b), “section 1342 of title 31” substituted for “section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))” on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

### **Amendments**

**1975**—Pub. L. 94–52 designated existing provisions as subsec. (a) and added subsec. (b).

### **§4344. Duties and functions**

It shall be the duty and function of the Council—

- (1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 4341<sup>1</sup> of this title;
- (2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in subchapter I of this chapter, and to compile and submit to the President studies relating to such conditions and trends;
- (3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;
- (4) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;
- (5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

(Pub. L. 91–190, title II, §204, Jan. 1, 1970, 83 Stat. 855.)

### **References in Text**

Section 4341 of this title, referred to in par. (1), was omitted from the Code.

### **Transfer of Functions**

So much of functions of Council on Environmental Quality under par. (5) of this section as pertains to ecological systems transferred to Administrator of Environmental Protection Agency by Reorg. Plan No. 3 of 1970, §2(a)(5), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, set out under section 4321 of this title.

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

### **§4345. Consultation with Citizens' Advisory Committee on Environmental Quality and other representatives**

In exercising its powers, functions, and duties under this chapter, the Council shall—

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

(Pub. L. 91–190, title II, §205, Jan. 1, 1970, 83 Stat. 855.)

### **References in Text**

Executive Order numbered 11472, dated May 29, 1969, referred to in par. (1), is set out as a note under section 4321 of this title.

### **Citizens' Advisory Committee on Environmental Quality**

For provisions relating to termination of Citizens' Advisory Committee on Environmental Quality, see Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

#### **§4346. Tenure and compensation of members**

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for Level IV or <sup>1</sup> the Executive Schedule Pay Rates (5 U.S.C. 5315).

(Pub. L. 91–190, title II, §206, Jan. 1, 1970, 83 Stat. 856.)

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

#### **§4346a. Travel reimbursement by private organizations and Federal, State, and local governments**

The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.

(Pub. L. 91–190, title II, §207, as added Pub. L. 94–52, §3, July 3, 1975, 89 Stat. 258.)

#### **§4346b. Expenditures in support of international activities**

The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the support of international exchange programs in the United States and in foreign countries.

(Pub. L. 91–190, title II, §208, as added Pub. L. 94–52, §3, July 3, 1975, 89 Stat. 258.)

#### **§4347. Authorization of appropriations**

There are authorized to be appropriated to carry out the provisions of this chapter not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter.

(Pub. L. 91–190, title II, §209, formerly §207, Jan. 1, 1970, 83 Stat. 856, renumbered §209, Pub. L. 94–52, §3, July 3, 1975, 89 Stat. 258.)

### **SUBCHAPTER III—MISCELLANEOUS PROVISIONS**

#### **§§4361, 4361a. Repealed. Pub. L. 104–66, title II, §2021(k)(1), (2), Dec. 21, 1995, 109 Stat. 728**

Section 4361, Pub. L. 94–475, §5, Oct. 11, 1976, 90 Stat. 2071, related to 5-year plan for research, development, and demonstration.

Section 4361a, Pub. L. 95–155, §4, Nov. 8, 1977, 91 Stat. 1258, related to budget projections in annual revisions of the plan for research, development, and demonstration.

#### **§4361b. Implementation by Administrator of Environmental Protection Agency of recommendations of “CHESS” Investigative Report; waiver; inclusion of status of implementation requirements in annual revisions of plan for research, development, and demonstration**

The Administrator of the Environmental Protection Agency shall implement the recommendations of the report prepared for the House Committee on Science and Technology entitled “The Environmental Protection Agency Research Program with primary emphasis on the Community Health and Environmental Surveillance System (CHESS): An Investigative Report”, unless for any specific recommendation he determines (1) that such recommendation has been implemented, (2) that implementation of such recommendation would not enhance the quality of the research, or (3) that implementation of such recommendation will require funding which is not available. Where such funding is not available, the Administrator shall request the required authorization or appropriation for such implementation. The Administrator shall report the status of such implementation in each annual revision of the five-year plan transmitted to the Congress under section 4361<sup>1</sup> of this title.

(Pub. L. 95–155, §10, Nov. 8, 1977, 91 Stat. 1262.)

#### **References in Text**

Section 4361 of this title, referred to in text, was repealed by Pub. L. 104–66, title II, §2021(k)(1), Dec. 21, 1995, 109 Stat. 728.

#### **Codification**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

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

### **§4361c. Staff management**

#### **(a) Appointments for educational programs**

(1) The Administrator is authorized to select and appoint up to 75 full-time permanent staff members in the Office of Research and Development to pursue full-time educational programs for the purpose of (A) securing an advanced degree or (B) securing academic training, for the purpose of making a career change in order to better carry out the Agency's research mission.

(2) The Administrator shall select and appoint staff members for these assignments according to rules and criteria promulgated by him. The Agency may continue to pay the salary and benefits of the appointees as well as reasonable and appropriate relocation expenses and tuition.

(3) The term of each appointment shall be for up to one year, with a single renewal of up to one year in appropriate cases at the discretion of the Administrator.

(4) Staff members appointed to this program shall not count against any Agency personnel ceiling during the term of their appointment.

#### **(b) Post-doctoral research fellows**

(1) The Administrator is authorized to appoint up to 25 Post-doctoral Research Fellows in accordance with the provisions of section 213.3102(aa) of title 5 of the Code of Federal Regulations.

(2) Persons holding these appointments shall not count against any personnel ceiling of the Agency.

#### **(c) Non-Government research associates**

(1) The Administrator is authorized and encouraged to utilize research associates from outside the Federal Government in conducting the research, development, and demonstration programs of the Agency.

(2) These persons shall be selected and shall serve according to rules and criteria promulgated by the Administrator.

**(d) Women and minority groups**

For all programs in this section, the Administrator shall place special emphasis on providing opportunities for education and training of women and minority groups.

(Pub. L. 95–477, §6, Oct. 18, 1978, 92 Stat. 1510.)

**Codification**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1979, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

**Contracts by Office of Research and Development of the Environmental Protection Agency**

Pub. L. 108–7, div. K, title III, Feb. 20, 2003, 117 Stat. 509, provided in part: “That the Office of Research and Development of the Environmental Protection Agency may hereafter contract directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5, for the temporary or intermittent personal services of students or recent graduates, who shall be considered employees for the purposes of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes.”

**§4362. Interagency cooperation on prevention of environmental cancer and heart and lung disease**

(a) Not later than three months after August 7, 1977, there shall be established a Task Force on Environmental Cancer and Heart and Lung Disease (hereinafter referred to as the “Task Force”). The Task Force shall include representatives of the Environmental Protection Agency, the National Cancer Institute, the National Heart, Lung, and Blood Institute, the National Institute of Occupational Safety and Health, and the National Institute on Environmental Health Sciences, and shall be chaired by the Administrator (or his delegate).

(b) The Task Force shall—

- (1) recommend a comprehensive research program to determine and quantify the relationship between environmental pollution and human cancer and heart and lung disease;
- (2) recommend comprehensive strategies to reduce or eliminate the risks of cancer or such other diseases associated with environmental pollution;

(3) recommend research and such other measures as may be appropriate to prevent or reduce the incidence of environmentally related cancer and heart and lung diseases;

(4) coordinate research by, and stimulate cooperation between, the Environmental Protection Agency, the Department of Health and Human Services, and such other agencies as may be appropriate to prevent environmentally related cancer and heart and lung diseases; and

(5) report to Congress, not later than one year after August 7, 1977, and annually thereafter, on the problems and progress in carrying out this section.

(Pub. L. 95–95, title IV, §402, Aug. 7, 1977, 91 Stat. 791; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

### **Codification**

Section was enacted as part of the Clean Air Act Amendments of 1977, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **Change of Name**

“Department of Health and Human Services” substituted for “Department of Health, Education, and Welfare” in subsec. (b)(4) pursuant to section 507(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

### **Effective Date**

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95–95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

### **Termination of Reporting Requirements**

For termination, effective May 15, 2000, of provisions in subsec. (b)(5) of this section relating to annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and item 18 on page 164 of House Document No. 103–7.

### **§4362a. Membership of Task Force on Environmental Cancer and Heart and Lung Disease**

The Director of the National Center for Health Statistics and the head of the Center for Disease Control (or the successor to such entity) shall each serve as members of the Task



Force on Environmental Cancer and Heart and Lung Disease established under section 4362 of this title.

(Pub. L. 95–623, §9, Nov. 9, 1978, 92 Stat. 3455.)

### **Codification**

Section was enacted as part of the Health Services Research, Health Statistics, and Health Care Technology Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **Change of Name**

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, §312, Oct. 27, 1992, 106 Stat. 3504.

### **§4363. Continuing and long-term environmental research and development**

The Administrator of the Environmental Protection Agency shall establish a separately identified program of continuing, long-term environmental research and development for each activity listed in section 2(a) of this Act. Unless otherwise specified by law, at least 15 per centum of funds appropriated to the Administrator for environmental research and development for each activity listed in section 2(a) of this Act shall be obligated and expended for such long-term environmental research and development under this section.

(Pub. L. 96–569, §2(f), Dec. 22, 1980, 94 Stat. 3337.)

### **References in Text**

Section 2(a) of this Act, referred to in text, is section 2(a) of Pub. L. 96–569, Dec. 22, 1980, 94 Stat. 3335, which is not classified to the Code.

### **Codification**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1981, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **Prior Provisions**

Provisions similar to those in this section were contained in the following prior authorization acts:

**1980**—Pub. L. 96–229, §2(e), Apr. 7, 1980, 94 Stat. 327.

**1977**—Pub. L. 95–155, §6, Nov. 8, 1977, 91 Stat. 1259.

### **§4363a. Pollution control technologies demonstrations**

(1) The Administrator shall continue to be responsible for conducting and shall continue to conduct full-scale demonstrations of energy-related pollution control technologies as necessary in his judgment to fulfill the provisions of the Clean Air Act as amended [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act as amended [33 U.S.C. 1251 et seq.], and other pertinent pollution control statutes.

(2) Energy-related environmental protection projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to the Department of Energy or reduced through budget amendment. No action shall be taken through administrative or budgetary means to diminish the ability of the Environmental Protection Agency to initiate such projects.

(Pub. L. 96–229, §2(d), Apr. 7, 1980, 94 Stat. 327.)

### **References in Text**

The Clean Air Act as amended, referred to in par. (1), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

The Federal Water Pollution Control Act as amended, referred to in par. (1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

This Act, referred to in par. (2), is Pub. L. 96–229, Apr. 7, 1980, 94 Stat. 325, known as the Environmental, Research, Development, and Demonstration Authorization Act of 1980, which enacted sections 4363, 4363a, 4369a, and 4370 of this title. For complete classification of this Act to the Code, see Tables.

### **Codification**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1980, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

**Prior Provisions**

Provisions similar to those in this section were contained in the following prior authorization act:

**1979**—Pub. L. 95-477, §2(d), Oct. 18, 1978, 92 Stat. 1508.

**§4364. Expenditure of funds for research and development related to regulatory program activities****(a) Coordination, etc., with research needs and priorities of program offices and Environmental Protection Agency**

The Administrator of the Environmental Protection Agency shall assure that the expenditure of any funds appropriated pursuant to this Act or any other provision of law for environmental research and development related to regulatory program activities shall be coordinated with and reflect the research needs and priorities of the program offices, as well as the overall research needs and priorities of the Agency, including those defined in the five-year research plan.

**(b) Program offices subject to coverage**

For purposes of subsection (a) of this section, the appropriate program offices are—

- (1) the Office of Air and Waste Management, for air quality activities;
- (2) the Office of Water and Hazardous Materials, for water quality activities and water supply activities;
- (3) the Office of Pesticides, for environmental effects of pesticides;
- (4) the Office of Solid Waste, for solid waste activities;
- (5) the Office of Toxic Substances, for toxic substance activities;
- (6) the Office of Radiation Programs, for radiation activities; and
- (7) the Office of Noise Abatement and Control, for noise activities.

**(c) Report to Congress; contents**

The Administrator shall submit to the President and the Congress a report concerning the most appropriate means of assuring, on a continuing basis, that the research efforts of the Agency reflect the needs and priorities of the regulatory program offices, while

maintaining a high level of scientific quality. Such report shall be submitted on or before March 31, 1978.

(Pub. L. 95–155, §7, Nov. 8, 1977, 91 Stat. 1259.)

### **References in Text**

This Act, referred to in subsec. (a), is Pub. L. 95–155, Nov. 8, 1977, 91 Stat. 1257, as amended, known as the Environmental Research, Development, and Demonstration Authorization Act of 1978, which to the extent classified to the Code enacted sections 300j–3a, 4361a, 4361b, and 4363 to 4367 of this title. For complete classification of this Act to the Code, see Tables.

### **Codification**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **§4365. Science Advisory Board**

#### **(a) Establishment; requests for advice by Administrator of Environmental Protection Agency and Congressional committees**

The Administrator of the Environmental Protection Agency shall establish a Science Advisory Board which shall provide such scientific advice as may be requested by the Administrator, the Committee on Environment and Public Works of the United States Senate, or the Committee on Science, Space, and Technology, on Energy and Commerce, or on Public Works and Transportation of the House of Representatives.

#### **(b) Membership; Chairman; meetings; qualifications of members**

Such Board shall be composed of at least nine members, one of whom shall be designated Chairman, and shall meet at such times and places as may be designated by the Chairman of the Board in consultation with the Administrator. Each member of the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section.

#### **(c) Proposed environmental criteria document, standard, limitation, or regulation; functions respecting in conjunction with Administrator**

(1) The Administrator, at the time any proposed criteria document, standard, limitation, or regulation under the Clean Air Act [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], the Resource Conservation and Recovery

Act of 1976 [42 U.S.C. 6901 et seq.], the Noise Control Act [42 U.S.C. 4901 et seq.], the Toxic Substances Control Act [15 U.S.C. 2601 et seq.], or the Safe Drinking Water Act [42 U.S.C. 300f et seq.], or under any other authority of the Administrator, is provided to any other Federal agency for formal review and comment, shall make available to the Board such proposed criteria document, standard, limitation, or regulation, together with relevant scientific and technical information in the possession of the Environmental Protection Agency on which the proposed action is based.

(2) The Board may make available to the Administrator, within the time specified by the Administrator, its advice and comments on the adequacy of the scientific and technical basis of the proposed criteria document, standard, limitation, or regulation, together with any pertinent information in the Board's possession.

**(d) Utilization of technical and scientific capabilities of Federal agencies and national environmental laboratories for determining adequacy of scientific and technical basis of proposed criteria document, etc.**

In preparing such advice and comments, the Board shall avail itself of the technical and scientific capabilities of any Federal agency, including the Environmental Protection Agency and any national environmental laboratories.

**(e) Member committees and investigative panels; establishment; chairmanship**

The Board is authorized to constitute such member committees and investigative panels as the Administrator and the Board find necessary to carry out this section. Each such member committee or investigative panel shall be chaired by a member of the Board.

**(f) Appointment and compensation of secretary and other personnel; compensation of members**

(1) Upon the recommendation of the Board, the Administrator shall appoint a secretary, and such other employees as deemed necessary to exercise and fulfill the Board's powers and responsibilities. The compensation of all employees appointed under this paragraph shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5.

(2) Members of the Board may be compensated at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5.

**(g) Consultation and coordination with Scientific Advisory Panel**

In carrying out the functions assigned by this section, the Board shall consult and coordinate its activities with the Scientific Advisory Panel established by the Administrator pursuant to section 136w(d) of title 7.

(Pub. L. 95–155, §8, Nov. 8, 1977, 91 Stat. 1260; Pub. L. 96–569, §3, Dec. 22, 1980, 94 Stat. 3337; Pub. L. 103–437, §15(o), Nov. 2, 1994, 108 Stat. 4593; Pub. L. 104–66, title II, §2021(k)(3), Dec. 21, 1995, 109 Stat. 728.)

### **References in Text**

The Clean Air Act, referred to in subsec. (c)(1), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (c)(1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Resource Conservation and Recovery Act of 1976, referred to in subsec. (c)(1), is Pub. L. 94–580, Oct. 21, 1976, 90 Stat. 2796, as amended, which is classified generally to chapter 82 (§6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 6901 of this title and Tables.

The Noise Control Act, referred to in subsec. (c)(1), probably means the Noise Control Act of 1972, Pub. L. 92–574, Oct. 27, 1972, 86 Stat. 1234, as amended, which is classified principally to chapter 65 (§4901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4901 of this title and Tables.

The Toxic Substances Control Act, referred to in subsec. (c)(1), is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003, as amended, which is classified generally to chapter 53 (§2601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

The Safe Drinking Water Act, referred to in subsec. (c)(1), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, §2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

### **Codification**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **Amendments**

**1995**—Subsecs. (c) to (i). Pub. L. 104–66 redesignated subsecs. (e) to (i) as (c) to (g), respectively, and struck out former subsec. (c) which read as follows: “In addition to providing scientific advice when requested by the Administrator under subsection (a) of this section, the Board shall review and comment on the Administration's five-year plan for environmental research, development, and demonstration provided for by section 4361 of this title and on each annual revision thereof. Such review and comment shall be transmitted to the Congress by the Administrator, together with his comments thereon, at the time of the transmission to the Congress of the annual revision involved.”

**1994**—Subsec. (a). Pub. L. 103–437, §15(o)(1), substituted “Committee on Science, Space, and Technology, on Energy and Commerce, or on” for “Committees on Science and Technology, Interstate and Foreign Commerce, or”.

Subsec. (d). Pub. L. 103–437, §15(o)(2), struck out subsec. (d) which related to review and report to Administrator, President, and Congress on health effects research.

**1980**—Subsec. (a). Pub. L. 96–569 inserted provisions relating to requests by the enumerated Congressional committees.

### **Change of Name**

Committee on Science, Space, and Technology of House of Representatives treated as referring to Committee on Science of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2.

### **Termination of Advisory Boards**

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

### **References in Other Laws to GS–16, 17, or 18 Pay Rates**

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

### **§4366. Identification and coordination of research, development, and demonstration activities**

#### **(a) Consultation and cooperation of Administrator of Environmental Protection Agency with heads of Federal agencies; inclusion of activities in annual revisions of plan for research, etc.**

The Administrator of the Environmental Protection Agency, in consultation and cooperation with the heads of other Federal agencies, shall take such actions on a continuing basis as may be necessary or appropriate—

(1) to identify environmental research, development, and demonstration activities, within and outside the Federal Government, which may need to be more effectively coordinated in order to minimize unnecessary duplication of programs, projects, and research facilities;

(2) to determine the steps which might be taken under existing law, by him and by the heads of such other agencies, to accomplish or promote such coordination, and to provide for or encourage the taking of such steps; and

(3) to determine the additional legislative actions which would be needed to assure such coordination to the maximum extent possible.



The Administrator shall include in each annual revision of the five-year plan provided for by section 4361<sup>1</sup> of this title a full and complete report on the actions taken and determinations made during the preceding year under this subsection, and may submit interim reports on such actions and determinations at such other times as he deems appropriate.

**(b) Coordination of programs by Administrator**

The Administrator of the Environmental Protection Agency shall coordinate environmental research, development, and demonstration programs of such Agency with the heads of other Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

**(c) Joint study by Council on Environmental Quality in consultation with Office of Science and Technology Policy for coordination of activities; report to President and Congress; report by President to Congress on implementation of joint study and report**

(1) In order to promote the coordination of environmental research and development activities, and to assure that the action taken and methods used (under subsection (a) of this section and otherwise) to bring about such coordination will be as effective as possible for that purpose, the Council on Environmental Quality in consultation with the Office of Science and Technology Policy shall promptly undertake and carry out a joint study of all aspects of the coordination of environmental research and development. The Chairman of the Council shall prepare a report on the results of such study, together with such recommendations (including legislative recommendations) as he deems appropriate, and shall submit such report to the President and the Congress not later than May 31, 1978.

(2) Not later than September 30, 1978, the President shall report to the Congress on steps he has taken to implement the recommendations included in the report under paragraph (1), including any recommendations he may have for legislation.

(Pub. L. 95–155, §9, Nov. 8, 1977, 91 Stat. 1261.)

**References in Text**

Section 4361 of this title, referred to in subsec. (a), was repealed by Pub. L. 104–66, title II, §2021(k)(1), Dec. 21, 1995, 109 Stat. 728.

**Codification**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **Coordination of Environmental Research, Development, and Demonstration Efforts; Study and Report**

Pub. L. 95-477, §3(c), Oct. 18, 1978, 92 Stat. 1509, authorized to be appropriated to the Environmental Protection Agency for the fiscal year 1979, \$1,000,000, and for the fiscal year 1980, \$1,000,000, for a study and report, under a contract let by the Administrator, to be conducted outside the Federal Government, on coordination of the Federal Government's efforts in environmental research, development, and demonstration, and the application of the results of such efforts to environmental problems, with the report on the study submitted to the President, the Administrator, and the Congress within two years after Oct. 18, 1978, accompanied by recommendations for action by the President, the Administrator, other agencies, or the Congress, as may be appropriate.

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

### **§4366a. Omitted**

#### **Codification**

Section, Pub. L. 101-617, §4, Nov. 16, 1990, 104 Stat. 3287, which related to development of data base of environmental research articles indexed by geographic location, expired 10 years after Nov. 16, 1990, pursuant to section 6 of Pub. L. 101-617, formerly set out as a Termination Date note under this section.

#### **Termination Date**

Pub. L. 101-617, §6, Nov. 16, 1990, 104 Stat. 3287, provided that Pub. L. 101-617, which enacted this section and provisions formerly set out under this section, was to expire 10 years after Nov. 16, 1990.

#### **Short Title; Findings; Purpose; Authorization**

Pub. L. 101-617, §§1-3, 5, Nov. 16, 1990, 104 Stat. 3287, which provided that Pub. L. 101-617, which enacted this section and provisions formerly set out under this section, could be cited as the "Environmental Research Geographic Location Information Act", and further provided for findings, purpose to develop data base of environmental research articles indexed by geographic location, and authorization of appropriations, expired 10 years after Nov. 16, 1990, pursuant to section 6 of Pub. L. 101-617, formerly set out as a note under this section.

**§4367. Reporting requirements of financial interests of officers and employees of Environmental Protection Agency**

**(a) Covered officers and employees**

Each officer or employee of the Environmental Protection Agency who—

- (1) performs any function or duty under this Act; and
- (2) has any known financial interest in any person who applies for or receives grants, contracts, or other forms of financial assistance under this Act, shall, beginning on February 1, 1978, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

**(b) Implementation of requirements by Administrator**

The Administrator shall—

- (1) act within ninety days after November 8, 1977—
  - (A) to define the term “known financial interest” for purposes of subsection (a) of this section; and
  - (B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and
- (2) Omitted.

**(c) Exemption of positions by Administrator**

In the rules prescribed under subsection (b) of this section, the Administrator may identify specific positions of a nonpolicymaking nature within the Administration and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

**(d) Violations; penalties**

Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

(Pub. L. 95–155, §12, Nov. 8, 1977, 91 Stat. 1263.)

## References in Text

This Act, referred to in subsec. (a)(1), (2), is Pub. L. 95–155, Nov. 8, 1977, 91 Stat. 1257, as amended, known as the Environmental Research, Development, and Demonstration Authorization Act of 1978, which to the extent classified to the Code enacted sections 300j–3a, 4361a, 4361b, and 4363 to 4367 of this title. For complete classification of this Act to the Code, see Tables.

## Codification

Subsec. (b)(2) of this section, which required the Administrator to report to Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 9 on page 164 of House Document No. 103–7.

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **§4368. Grants to qualified citizens groups**

(1) There is authorized to be appropriated to the Environmental Protection Agency, for grants to qualified citizens groups in States and regions, \$3,000,000.

(2) Grants under this section may be made for the purpose of supporting and encouraging participation by qualified citizens groups in determining how scientific, technological, and social trends and changes affect the future environment and quality of life of an area, and for setting goals and identifying measures for improvement.

(3) The term “qualified citizens group” shall mean a nonprofit organization of citizens having an area based focus, which is not single-issue oriented and which can demonstrate a prior record of interest and involvement in goal-setting and research concerned with improving the quality of life, including plans to identify, protect and enhance significant natural and cultural resources and the environment.

(4) A citizens group shall be eligible for assistance only if certified by the Governor in consultation with the State legislature as a bonafide organization entitled to receive Federal assistance to pursue the aims of this program. The group shall further demonstrate its capacity to employ usefully the funds for the purposes of this program and its broad-based representative nature.

(5) After an initial application for assistance under this section has been approved, the Administrator may make grants on an annual basis, on condition that the Governor recertify the group and that the applicant submits to the Administrator annually—

(A) an evaluation of the progress made during the previous year in meeting the objectives for which the grant was made;

(B) a description of any changes in the objectives of the activities; and

(C) a description of the proposed activities for the succeeding one year period.

(6) A grant made under this program shall not exceed 75 per centum of the estimated cost of the project or program for which the grant is made, and no group shall receive more than \$50,000 in any one year.

(7) No financial assistance provided under this section shall be used to support lobbying or litigation by any recipient group.

(Pub. L. 95–477, §3(d), Oct. 18, 1978, 92 Stat. 1509.)

### **References in Text**

This section, referred to in par. (5), means section 3 of Pub. L. 95–477, in its entirety, subsec. (d) of which enacted this section, subsecs. (a) and (b) of which were not classified to the Code, and subsec. (c) of which is set out as a note under section 4366 of this title.

### **Codification**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1979, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **§4368a. Utilization of talents of older Americans in projects of pollution prevention, abatement, and control**

#### **(a) Technical assistance to environmental agencies**

Notwithstanding any other provision of law relating to Federal grants and cooperative agreements, the Administrator of the Environmental Protection Agency is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations designated by the Secretary of Labor under title V of the Older Americans Act of 1965 [42 U.S.C. 3056 et seq.] to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Administrator (and

consistent with such provisions of law) in providing technical assistance to Federal, State, and local environmental agencies for projects of pollution prevention, abatement, and control. Funding for such grants or agreements may be made available from such programs or through title V of the Older Americans Act of 1965 and subtitle D of title I of the Workforce Investment Act of 1998 [29 U.S.C. 2911 et seq.].

**(b) Pre-award certifications**

Prior to awarding any grant or agreement under subsection (a) of this section, the applicable Federal, State, or local environmental agency shall certify to the Administrator that such grants or agreements will not—

- (1) result in the displacement of individuals currently employed by the environmental agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);
- (2) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the environmental agency concerned; or
- (3) affect existing contracts for services.

**(c) Prior appropriation Acts**

Grants or agreements awarded under this section shall be subject to prior appropriation Acts.

(Pub. L. 98–313, §2, June 12, 1984, 98 Stat. 235; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(35), (f)(27)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–426, 2681–434.)

**References in Text**

The Older Americans Act of 1965, referred to in subsec. (a), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended. Title V of the Act, known as the “Older American Community Service Employment Act”, is classified generally to subchapter IX (§3056 et seq.) of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (a), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Subtitle D of title I of the Act is classified generally to subchapter IV (§2911 et seq.) of chapter 30 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

## **Codification**

Section was enacted as part of the Environmental Programs Assistance Act of 1984, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## **Amendments**

**1998**—Subsec. (a). Pub. L. 105–277, §101(f) [title VIII, §405(f)(27)], struck out “title IV of the Job Training Partnership Act or” after “title V of the Older Americans Act of 1965 and” in last sentence.

Pub. L. 105–277, §101(f) [title VIII, §405(d)(35)], substituted “and title IV of the Job Training Partnership Act or subtitle D of title I of the Workforce Investment Act of 1998” for “and title IV of the Job Training Partnership Act” in second sentence.

## **Effective Date of 1998 Amendment**

Amendment by section 101(f) [title VIII, §405(d)(35)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(27)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

## **Short Title**

Section 1 of Pub. L. 98–313 provided that: “This Act [enacting this section] may be cited as the ‘Environmental Programs Assistance Act of 1984’.”

## **§4368b. General assistance program**

### **(a) Short title**

This section may be cited as the “Indian Environmental General Assistance Program Act of 1992”.

### **(b) Purposes**

The purposes of this section are to—

(1) provide general assistance grants to Indian tribal governments and intertribal consortia to build capacity to administer environmental regulatory programs that may be delegated by the Environmental Protection Agency on Indian lands; and

(2) provide technical assistance from the Environmental Protection Agency to Indian tribal governments and intertribal consortia in the development of multimedia programs to address environmental issues on Indian lands.

**(c) Definitions**

For purposes of this section:

(1) The term “Indian tribal government” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(2) The term “intertribal consortia” or “intertribal consortium” means a partnership between two or more Indian tribal governments authorized by the governing bodies of those tribes to apply for and receive assistance pursuant to this section.

(3) The term “Administrator” means the Administrator of the Environmental Protection Agency.

**(d) General assistance program**

(1) The Administrator of the Environmental Protection Agency shall establish an Indian Environmental General Assistance Program that provides grants to eligible Indian tribal governments or intertribal consortia to cover the costs of planning, developing, and establishing environmental protection programs consistent with other applicable provisions of law providing for enforcement of such laws by Indian tribes on Indian lands.

(2) Each grant awarded for general assistance under this subsection for a fiscal year shall be no less than \$75,000, and no single grant may be awarded to an Indian tribal government or intertribal consortium for more than 10 percent of the funds appropriated under subsection (h) of this section.

(3) The term of any general assistance award made under this subsection may exceed one year. Any awards made pursuant to this section shall remain available until expended. An Indian tribal government or intertribal consortium may receive a general assistance grant for a period of up to four years in each specific media area.

**(e) No reduction in amounts**



In no case shall the award of a general assistance grant to an Indian tribal government or intertribal consortium under this section result in a reduction of Environmental Protection Agency grants for environmental programs to that tribal government or consortium. Nothing in this section shall preclude an Indian tribal government or intertribal consortium from receiving individual media grants or cooperative agreements. Funds provided by the Environmental Protection Agency through the general assistance program shall be used by an Indian tribal government or intertribal consortium to supplement other funds provided by the Environmental Protection Agency through individual media grants or cooperative agreements.

**(f) Expenditure of general assistance**

Any general assistance under this section shall be expended for the purpose of planning, developing, and establishing the capability to implement programs administered by the Environmental Protection Agency and specified in the assistance agreement. Purposes and programs authorized under this section shall include the development and implementation of solid and hazardous waste programs for Indian lands. An Indian tribal government or intertribal consortium receiving general assistance pursuant to this section shall utilize such funds for programs and purposes to be carried out in accordance with the terms of the assistance agreement. Such programs and general assistance shall be carried out in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

**(g) Procedures**

(1) Within 12 months following October 24, 1992, the Administrator shall promulgate regulations establishing procedures under which an Indian tribal government or intertribal consortium may apply for general assistance grants under this section.

(2) The Administrator shall publish regulations issued pursuant to this section in the Federal Register.

(3) The Administrator shall establish procedures for accounting, auditing, evaluating, and reviewing any programs or activities funded in whole or in part for a general assistance grant under this section.

**(h) Authorization**

There are authorized to be appropriated to carry out the provisions of this section, such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

**(i) Report to Congress**

The Administrator shall transmit an annual report to the appropriate Committees of the Congress with jurisdiction over the applicable environmental laws and Indian tribes describing which Indian tribes or intertribal consortia have been granted approval by the Administrator pursuant to law to enforce certain environmental laws and the effectiveness of any such enforcement.

(Pub. L. 95–134, title V, §502, as added Pub. L. 102–497, §11, Oct. 24, 1992, 106 Stat. 3258; amended Pub. L. 103–155, Nov. 24, 1993, 107 Stat. 1523; Pub. L. 104–233, §1, Oct. 2, 1996, 110 Stat. 3057.)

### **References in Text**

The Alaska Native Claims Settlement Act, referred to in subsec. (c)(1), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Solid Waste Disposal Act, referred to in subsec. (f), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

### **Codification**

Section was enacted as the Indian Environmental General Assistance Program Act of 1992 and as part of the Omnibus Territories Act of 1977, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **Amendments**

**1996**—Subsec. (h). Pub. L. 104–233 substituted “such sums as may be necessary” for “\$15,000,000”.

**1993**—Subsec. (d)(1). Pub. L. 103–155, §3(a), inserted “consistent with other applicable provisions of law providing for enforcement of such laws by Indian tribes” after “programs”.

Subsec. (f). Pub. L. 103–155, §3(b), inserted at end “Such programs and general assistance shall be carried out in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)”

Subsec. (h). Pub. L. 103–155, §1, substituted “, 1994, 1995, 1996, 1997, and 1998” for “and 1994”.

Subsec. (i). Pub. L. 103–155, §2, added subsec. (i).

#### **§4369. Miscellaneous reports**

##### **(a) Availability to Congressional committees**

All reports to or by the Administrator relevant to the Agency's program of research, development, and demonstration shall promptly be made available to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate, unless otherwise prohibited by law.

##### **(b) Transmittal of jurisdictional information**

The Administrator shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate fully and currently informed with respect to matters falling within or related to the jurisdiction of the committees.

##### **(c) Comment by Government agencies and the public**

The reports provided for in section 5910<sup>1</sup> of this title shall be made available to the public for comment, and to the heads of affected agencies for comment and, in the case of recommendations for action, for response.

##### **(d) Transmittal of research information to the Department of Energy**

For the purpose of assisting the Department of Energy in planning and assigning priorities in research development and demonstration activities related to environmental control technologies, the Administrator shall actively make available to the Department all information on research activities and results of research programs of the Environmental Protection Agency.

(Pub. L. 95–477, §5, Oct. 18, 1978, 92 Stat. 1510; Pub. L. 103–437, §15(c)(6), Nov. 2, 1994, 108 Stat. 4592.)

#### **References in Text**

Section 5910 of this title, referred to in subsec. (c), was repealed by Pub. L. 104–66, title II, §2021(i), Dec. 21, 1995, 109 Stat. 727.

#### **Codification**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1979, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **Amendments**

**1994**—Subsecs. (a), (b). Pub. L. 103–437 substituted “Science, Space, and Technology” for “Science and Technology”.

### **Change of Name**

Committee on Science, Space, and Technology of House of Representatives treated as referring to Committee on Science of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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

## **§4369a. Reports on environmental research and development activities of Agency**

### **(a) Reports to keep Congressional committees fully and currently informed**

The Administrator shall keep the appropriate committees of the House and the Senate fully and currently informed about all aspects of the environmental research and development activities of the Environmental Protection Agency.

### **(b) Omitted**

(Pub. L. 96–229, §4, Apr. 7, 1980, 94 Stat. 328.)

### **Codification**

Subsec. (b) of this section, which required the Administrator to annually make available to the appropriate committees of Congress sufficient copies of a report fully describing funds requested and the environmental research and development activities to be carried out with these funds, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 24 on page 163 of House Document No. 103–7.

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1980, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

**§4370. Reimbursement for use of facilities****(a) Authority to allow outside groups or individuals to use research and test facilities; reimbursement**

The Administrator is authorized to allow appropriate use of special Environmental Protection Agency research and test facilities by outside groups or individuals and to receive reimbursement or fees for costs incurred thereby when he finds this to be in the public interest. Such reimbursement or fees are to be used by the Agency to defray the costs of use by outside groups or individuals.

**(b) Rules and regulations**

The Administrator may promulgate regulations to cover such use of Agency facilities in accordance with generally accepted accounting, safety, and laboratory practices.

**(c) Waiver of reimbursement by Administrator**

When he finds it is in the public interest the Administrator may waive reimbursement or fees for outside use of Agency facilities by nonprofit private or public entities.

(Pub. L. 96-229, §5, Apr. 7, 1980, 94 Stat. 328.)

**Codification**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1980, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

**§4370a. Assistant Administrators of Environmental Protection Agency; appointment; duties**

(a) The President, by and with the advice and consent of the Senate, may appoint three Assistant Administrators of the Environmental Protection Agency in addition to—

(1) the five Assistant Administrators provided for in section 1(d) of Reorganization Plan Numbered 3 of 1970 (5 U.S.C. Appendix);

(2) the Assistant Administrator provided by section 2625(g) of title 15; and

(3) the Assistant Administrator provided by section 6911a of this title.

(b) Each Assistant Administrator appointed under subsection (a) of this section shall perform such duties as the Administrator of the Environmental Protection Agency may prescribe.

(Pub. L. 98–80, §1, Aug. 23, 1983, 97 Stat. 485.)

### **References in Text**

Reorganization Plan Numbered 3 of 1970, referred to in subsec. (a)(1), is set out under section 4321 of this title.

### **Codification**

Section was not enacted as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **§4370b. Availability of fees and charges to carry out Agency programs**

Notwithstanding any other provision of law, after September 30, 1990, amounts deposited in the Licensing and Other Services Fund from fees and charges assessed and collected by the Administrator for services and activities carried out pursuant to the statutes administered by the Environmental Protection Agency shall thereafter be available to carry out the Agency's activities in the programs for which the fees or charges are made.

(Pub. L. 101–144, title III, Nov. 9, 1989, 103 Stat. 858.)

### **Codification**

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **§4370c. Environmental Protection Agency fees**

#### **(a) Assessment and collection**

The Administrator of the Environmental Protection Agency shall, by regulation, assess and collect fees and charges for services and activities carried out pursuant to laws administered by the Environmental Protection Agency.

#### **(b) Amount of fees and charges**

Fees and charges assessed pursuant to this section shall be in such amounts as may be necessary to ensure that the aggregate amount of fees and charges collected pursuant to this section, in excess of the amount of fees and charges collected under current law—

(1) in fiscal year 1991, is not less than \$28,000,000; and

(2) in each of fiscal years 1992, 1993, 1994, and 1995, is not less than \$38,000,000.

**(c) Limitation on fees and charges**

(1) The maximum aggregate amount of fees and charges in excess of the amounts being collected under current law which may be assessed and collected pursuant to this section in a fiscal year—

(A) for services and activities carried out pursuant to <sup>1</sup> the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.] is \$10,000,000; and

(B) for services and activities in programs within the jurisdiction of the House Committee on Energy and Commerce and administered by the Environmental Protection Agency through the Administrator, shall be limited to such sums collected as of November 5, 1990, pursuant to sections 2625(b) and 2665(e)(2) <sup>2</sup> of title 15, and such sums specifically authorized by the Clean Air Act Amendments of 1990.

(2) Any remaining amounts required to be collected under this section shall be collected from services and programs administered by the Environmental Protection Agency other than those specified in subparagraphs (A) and (B) of paragraph (1).

**(d) Rule of construction**

Nothing in this section increases or diminishes the authority of the Administrator to promulgate regulations pursuant to section 9701 of title 31.

**(e) Uses of fees**

Fees and charges collected pursuant to this section shall be deposited into a special account for environmental services in the Treasury of the United States. Subject to appropriation Acts, such funds shall be available to the Environmental Protection Agency to carry out the activities for which such fees and charges are collected. Such funds shall remain available until expended.

(Pub. L. 101–508, title VI, §6501, Nov. 5, 1990, 104 Stat. 1388–320.)

**References in Text**

The Federal Water Pollution Control Act, referred to in subsec. (c)(1)(A), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

Section 2665(e)(2) of title 15, referred to in subsec. (c)(1)(B), was redesignated section 2665(d)(2) of Title 15, Commerce and Trade, by Pub. L. 104–66, title II, §2021(1)(2), Dec. 21, 1995, 109 Stat. 728.

The Clean Air Act Amendments of 1990, referred to in subsec. (c)(1)(B), means Pub. L. 101–549, Nov. 15, 1990, 104 Stat. 2399. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 7401 of this title and Tables.

### **Codification**

In subsec. (d), “section 9701 of title 31” was in the original “the Independent Office Appropriations Act (31 U.S.C. 9701)” and substitution was made as if it read for “title V of the Independent Offices Appropriation Act of 1952” on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1990, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **Change of Name**

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

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

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

### **§4370d. Percentage of Federal funding for organizations owned by socially and economically disadvantaged individuals**



The Administrator of the Environmental Protection Agency shall, on and after October 6, 1992, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans, and contracts for wastewater treatment and leaking underground storage tanks grants, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 637(a)(5) and (6) of title 15), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(Pub. L. 102–389, title III, Oct. 6, 1992, 106 Stat. 1602.)

### **Codification**

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **§4370e. Working capital fund in Treasury**

There is hereby established in the Treasury a “Working capital fund”, to be available without fiscal year limitation for expenses and equipment necessary for the maintenance and operation of such administrative services as the Administrator determines may be performed more advantageously as central services: Provided, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize such fund: Provided further, That such fund shall be paid in advance or reimbursed from funds available to the Agency and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the Administrator: Provided further, That such fund shall provide services on a competitive basis: Provided further, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Agency financial management, ADP, and other support systems: Provided further, That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury.

(Pub. L. 104–204, title III, Sept. 26, 1996, 110 Stat. 2912; Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1374; Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2499.)

### **Codification**

Section was formerly set out as a note under section 501 of Title 31, Money and Finance.

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **Amendments**

**1998**—Pub. L. 105–276, which directed the insertion of “or reimbursed” after “that such fund shall be paid in advance”, was executed by making the insertion after “That such fund shall be paid in advance”, to reflect the probable intent of Congress.

**1997**—Pub. L. 105–65 substituted “a ‘Working capital fund’ to be available without fiscal year limitation for expenses and equipment” for “a franchise fund pilot to be known as the ‘Working capital fund’, as authorized by section 403 of Public Law 103–356, to be available as provided in such section for expenses and equipment” and struck out proviso at end which read “: Provided further, That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103–356”.

#### **§4370f. Availability of funds after expiration of period for liquidating obligations**

For fiscal year 2001 and thereafter, the obligated balances of sums available in multiple-year appropriations accounts shall remain available through the seventh fiscal year after their period of availability has expired for liquidating obligations made during the period of availability.

(Pub. L. 106–377, §1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A–44.)

### **Codification**

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

#### **§4370g. Availability of funds for uniforms and certain services**

For fiscal year 2009 and thereafter, the Science and Technology and Environmental Programs and Management Accounts are available for uniforms, or allowances therefore, as authorized by sections 5901 and 5902 of title 5 and for services as authorized by section 3109 of title 5, but at rates for individuals not to exceed the daily equivalent of the rate paid for level IV of the Executive Schedule.

(Pub. L. 111–8, div. E, title II, Mar. 11, 2009, 123 Stat. 728.)

### **References in Text**

Level IV of the Executive Schedule, referred to in text, is set out under section 5315 of Title 5, Government Organization and Employees.

### **Codification**

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009, and also as part of the Omnibus Appropriations Act, 2009, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **§4370h. Availability of funds for facilities**

For fiscal year 2009 and thereafter, the Science and Technology, Environmental Programs and Management, Office of Inspector General, Hazardous Substance Superfund, and Leaking Underground Storage Tank Trust Fund Program Accounts, are available for the construction, alteration, repair, rehabilitation, and renovation of facilities provided that the cost does not exceed \$85,000 per project.

(Pub. L. 111–8, div. E, title II, Mar. 11, 2009, 123 Stat. 729.)

### **Codification**

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009, and also as part of the Omnibus Appropriations Act, 2009, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## **X. SUBMERGED LANDS**

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(as of February 2010)

43 U.S.C. Ch. 29: SUBMERGED LANDS  
From Title 43—PUBLIC LANDS

### **CHAPTER 29—SUBMERGED LANDS**

#### **SUBCHAPTER I—GENERAL PROVISIONS**

Sec.

1301. Definitions.

1302. Resources seaward of Continental Shelf.

1303. Amendment, modification, or repeal of other laws.

#### **SUBCHAPTER II—LANDS BENEATH NAVIGABLE WATERS WITHIN STATE BOUNDARIES**

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## **SUBCHAPTER I—GENERAL PROVISIONS**

### **§1301. Definitions**

When used in this subchapter and subchapter II of this chapter—

(a) The term “lands beneath navigable waters” means—

(1) all lands within the boundaries of each of the respective States which are covered by nontidal waters that were navigable under the laws of the United States at the time such State became a member of the Union, or acquired sovereignty over such lands and waters thereafter, up to the ordinary high water mark as heretofore or hereafter modified by accretion, erosion, and reliction;

(2) all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coast line of each such State and to the boundary line of each such State where in any case such boundary as it existed at the time such State became a member of the Union, or as heretofore approved by Congress, extends seaward (or into the Gulf of Mexico) beyond three geographical miles, and

(3) all filled in, made, or reclaimed lands which formerly were lands beneath navigable waters, as hereinabove defined;

(b) The term “boundaries” includes the seaward boundaries of a State or its boundaries in the Gulf of Mexico or any of the Great Lakes as they existed at the time such State became a member of the Union, or as heretofore approved by the Congress, or as extended or confirmed pursuant to section 1312 of this title but in no event shall the term

“boundaries” or the term “lands beneath navigable waters” be interpreted as extending from the coast line more than three geographical miles into the Atlantic Ocean or the Pacific Ocean, or more than three marine leagues into the Gulf of Mexico, except that any boundary between a State and the United States under this subchapter or subchapter II of this chapter which has been or is hereafter fixed by coordinates under a final decree of the United States Supreme Court shall remain immobilized at the coordinates provided under such decree and shall not be ambulatory;

(c) The term “coast line” means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters;

(d) The terms “grantees” and “lessees” include (without limiting the generality thereof) all political subdivisions, municipalities, public and private corporations, and other persons holding grants or leases from a State, or from its predecessor sovereign if legally validated, to lands beneath navigable waters if such grants or leases were issued in accordance with the constitution, statutes, and decisions of the courts of the State in which such lands are situated, or of its predecessor sovereign: Provided, however, That nothing herein shall be construed as conferring upon said grantees or lessees any greater rights or interests other than are described herein and in their respective grants from the State, or its predecessor sovereign;

(e) The term “natural resources” includes, without limiting the generality thereof, oil, gas, and all other minerals, and fish, shrimp, oysters, clams, crabs, lobsters, sponges, kelp, and other marine animal and plant life but does not include water power, or the use of water for the production of power;

(f) The term “lands beneath navigable waters” does not include the beds of streams in lands now or heretofore constituting a part of the public lands of the United States if such streams were not meandered in connection with the public survey of such lands under the laws of the United States and if the title to the beds of such streams was lawfully patented or conveyed by the United States or any State to any person;

(g) The term “State” means any State of the Union;

(h) The term “person” includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation.

(May 22, 1953, ch. 65, title I, §2, 67 Stat. 29; Pub. L. 99-272, title VIII, §8005, Apr. 7, 1986, 100 Stat. 151.)

### **Amendments**

**1986**—Subsec. (b). Pub. L. 99–272 inserted “, except that any boundary between a State and the United States under this subchapter or subchapter II of this chapter which has been or is hereafter fixed by coordinates under a final decree of the United States Supreme Court shall remain immobilized at the coordinates provided under such decree and shall not be ambulatory”.

### **Short Title of 1995 Amendment**

Pub. L. 104–58, title III, §301, Nov. 28, 1995, 109 Stat. 563, provided that: “This title [amending section 1337 of this title and enacting provisions set out as notes under section 1337 of this title] may be referred to as the ‘Outer Continental Shelf Deep Water Royalty Relief Act’.”

### **Short Title of 1986 Amendments**

Pub. L. 99–367, §1, July 31, 1986, 100 Stat. 774, provided: “That this Act [enacting section 1865 of this title, amending section 1343 of this title, and repealing section 1861 of this title] may be referred to as the ‘OCS Paperwork and Reporting Act’.”

Section 8001 of title VIII of Pub. L. 99–272 provided that: “This title [amending this section and sections 1332 and 1337 of this title and enacting provisions set out as a note under section 1337 of this title] may be referred to as the ‘Outer Continental Shelf Lands Act Amendments of 1985’.”

### **Short Title**

Section 1 of act May 22, 1953, provided that: “This Act [enacting subchapters I and II of this chapter] may be cited as the ‘Submerged Lands Act’.”

Section 1 of act Aug. 7, 1953, ch. 345, 67 Stat. 462, provided that: “This Act [enacting subchapter III of this chapter] may be cited as the ‘Outer Continental Shelf Lands Act’.”

### **Separability**

Section 11 of act May 22, 1953, provided that: “If any provision of this Act [enacting subchapters I and II of this chapter], or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby; without limiting the generality of the foregoing, if subsection 3(a)1, 3(a)2, 3(b)1, 3(b)2, 3(b)3, or 3(c) [section 1311(a)(1), (a)(2), (b)(1), (b)(2), (b)(3), (c) of this title] or any provision of any of those subsections is held invalid, such subsection or provision shall be held separable and the remaining subsections and provisions shall not be affected thereby.”

### **Naval Petroleum Reserve**

Section 10 of act May 22, 1953, revoked Ex. Ord. No. 10426, Jan. 16, 1953, 18 F.R. 405, “insofar as it applies to any lands beneath navigable waters as defined in section 2 hereof [this section]”. Ex. Ord. 10426 set aside certain submerged lands as a naval petroleum reserve and transferred functions with respect thereto from the Secretary of the Interior to the Secretary of the Navy.

### **Application to State of Alaska**

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Applicability of subchapters I and II of this chapter to the State of Alaska, see section 6(m) of Pub. L. 85–508, set out as a note preceding section 21 of Title 48.

### **Application to State of Hawaii**

Applicability of this chapter to the State of Hawaii, see section 5(i) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 6, set out as a note preceding section 491 of Title 48, Territories and Insular Possessions.

### **§1302. Resources seaward of Continental Shelf**

Nothing in this subchapter or subchapter II of this chapter shall be deemed to affect in any wise the rights of the United States to the natural resources of that portion of the subsoil and seabed of the Continental Shelf lying seaward and outside of the area of lands beneath navigable waters, as defined in section 1301 of this title, all of which natural resources appertain to the United States, and the jurisdiction and control of which by the United States is confirmed.

(May 22, 1953, ch. 65, title II, §9, 67 Stat. 32.)

### **§1303. Amendment, modification, or repeal of other laws**

Nothing in this subchapter or subchapter II of this chapter shall be deemed to amend, modify, or repeal the Acts of July 26, 1866 (14 Stat. 251), July 9, 1870 (16 Stat. 217), March 3, 1877 (19 Stat. 377), June 17, 1902 (32 Stat. 388), and December 22, 1944 (58 Stat. 887), and Acts amendatory thereof or supplementary thereto.

(May 22, 1953, ch. 65, title II, §7, 67 Stat. 32.)



## References in Text

Act July 26, 1866 (14 Stat. 251), referred to in text, is act July 26, 1866, ch. 262, 14 Stat. 251, which is not classified to the Code.

Act July 9, 1870 (16 Stat. 217), referred to in text, is act July 9, 1870, ch. 235, 16 Stat. 217, which is not classified to the Code.

Act March 3, 1877 (19 Stat. 377), referred to in text, is act Mar. 3, 1877, ch. 107, 19 Stat. 377, as amended, popularly known as the Desert Lands Act, which is classified generally to sections 321 to 323, 325, and 327 to 329 of this title. For complete classification of this Act to the Code, see Tables.

Act June 17, 1902 (32 Stat. 388), referred to in text, is popularly known as the Reclamation Act, which is classified generally to chapter 12 (§371) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

Act December 22, 1944 (58 Stat. 887), referred to in text, is act Dec. 22, 1944, ch. 665, 58 Stat. 887, as amended, which enacted section 390 of this title, sections 460d and 825s of Title 16, Conservation, and sections 701–1, 701a–1, 708, and 709 of Title 33, Navigation and Navigable Waters, amended section 701b–1 of Title 33, and enacted provisions set out as notes under section 701f of Title 33. For complete classification of this Act to the Code, see Tables.

## **SUBCHAPTER II—LANDS BENEATH NAVIGABLE WATERS WITHIN STATE BOUNDARIES**

### **§1311. Rights of States**

#### **(a) Confirmation and establishment of title and ownership of lands and resources; management, administration, leasing, development, and use**

It is determined and declared to be in the public interest that (1) title to and ownership of the lands beneath navigable waters within the boundaries of the respective States, and the natural resources within such lands and waters, and (2) the right and power to manage, administer, lease, develop, and use the said lands and natural resources all in accordance with applicable State law be, and they are, subject to the provisions hereof, recognized, confirmed, established, and vested in and assigned to the respective States or the persons who were on June 5, 1950, entitled thereto under the law of the respective States in which the land is located, and the respective grantees, lessees, or successors in interest thereof;

**(b) Release and relinquishment of title and claims of United States; payment to States of moneys paid under leases**

(1) The United States releases and relinquishes unto said States and persons aforesaid, except as otherwise reserved herein, all right, title, and interest of the United States, if any it has, in and to all said lands, improvements, and natural resources; (2) the United States releases and relinquishes all claims of the United States, if any it has, for money or damages arising out of any operations of said States or persons pursuant to State authority upon or within said lands and navigable waters; and (3) the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States shall pay to the respective States or their grantees issuing leases covering such lands or natural resources all moneys paid thereunder to the Secretary of the Interior or to the Secretary of the Navy or to the Treasurer of the United States and subject to the control of any of them or to the control of the United States on May 22, 1953, except that portion of such moneys which (1) is required to be returned to a lessee; or (2) is deductible as provided by stipulation or agreement between the United States and any of said States;

**(c) Leases in effect on June 5, 1950**

The rights, powers, and titles hereby recognized, confirmed, established, and vested in and assigned to the respective States and their grantees are subject to each lease executed by a State, or its grantee, which was in force and effect on June 5, 1950, in accordance with its terms and provisions and the laws of the State issuing, or whose grantee issued, such lease, and such rights, powers, and titles are further subject to the rights herein now granted to any person holding any such lease to continue to maintain the lease, and to conduct operations thereunder, in accordance with its provisions, for the full term thereof, and any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of the State issuing, or whose grantee issued such lease: Provided, however, That, if oil or gas was not being produced from such lease on and before December 11, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from May 22, 1953 equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of the State issuing, or whose grantee issued, such lease: Provided, however, That within ninety days from May 22, 1953 (i) the lessee shall pay to the State or its grantee issuing such lease all rents, royalties, and other sums payable between June 5, 1950, and May 22, 1953, under such lease and the laws of the State issuing or whose grantee issued such lease, except such rents, royalties, and other sums as have been paid to the State, its grantee, the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States and not refunded to the lessee; and (ii) the lessee shall file with the Secretary of the Interior or the Secretary of the Navy and with the State issuing or whose grantee issued such lease, instruments consenting to the payment by the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States to the State or its grantee issuing the lease, of all rents, royalties, and other payments under the control

of the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States or the United States which have been paid, under the lease, except such rentals, royalties, and other payments as have also been paid by the lessee to the State or its grantee;

**(d) Authority and rights of United States respecting navigation, flood control and production of power**

Nothing in this subchapter or subchapter I of this chapter shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of said lands and waters for the purposes of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control, or the production of power;

**(e) Ground and surface waters west of 98th meridian**

Nothing in this subchapter or subchapter I of this chapter shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian, relating to the ownership and control of ground and surface waters; and the control, appropriation, use, and distribution of such waters shall continue to be in accordance with the laws of such States.

(May 22, 1953, ch. 65, title II, §3, 67 Stat. 30.)

**Separability**

Provisions of this section as separable, see section 11 of act May 22, 1953, set out as a note under section 1301 of this title.

**§1312. Seaward boundaries of States**

The seaward boundary of each original coastal State is approved and confirmed as a line three geographical miles distant from its coast line or, in the case of the Great Lakes, to the international boundary. Any State admitted subsequent to the formation of the Union which has not already done so may extend its seaward boundaries to a line three geographical miles distant from its coast line, or to the international boundaries of the United States in the Great Lakes or any other body of water traversed by such boundaries. Any claim heretofore or hereafter asserted either by constitutional provision, statute, or otherwise, indicating the intent of a State so to extend its boundaries is approved and confirmed, without prejudice to its claim, if any it has, that its boundaries extend beyond that line. Nothing in this section is to be construed as questioning or in any manner prejudicing the existence of any State's seaward boundary beyond three

geographical miles if it was so provided by its constitution or laws prior to or at the time such State became a member of the Union, or if it has been heretofore approved by Congress.

(May 22, 1953, ch. 65, title II, §4, 67 Stat. 31.)

**§1313. Exceptions from operation of section 1311 of this title**

There is excepted from the operation of section 1311 of this title—

(a) all tracts or parcels of land together with all accretions thereto, resources therein, or improvements thereon, title to which has been lawfully and expressly acquired by the United States from any State or from any person in whom title had vested under the law of the State or of the United States, and all lands which the United States lawfully holds under the law of the State; all lands expressly retained by or ceded to the United States when the State entered the Union (otherwise than by a general retention or cession of lands underlying the marginal sea); all lands acquired by the United States by eminent domain proceedings, purchase, cession, gift, or otherwise in a proprietary capacity; all lands filled in, built up, or otherwise reclaimed by the United States for its own use; and any rights the United States has in lands presently and actually occupied by the United States under claim of right;

(b) such lands beneath navigable waters held, or any interest in which is held by the United States for the benefit of any tribe, band, or group of Indians or for individual Indians; and

(c) all structures and improvements constructed by the United States in the exercise of its navigational servitude.

(May 22, 1953, ch. 65, title II, §5, 67 Stat. 32.)

**§1314. Rights and powers retained by United States; purchase of natural resources; condemnation of lands**

(a) The United States retains all its navigational servitude and rights in and powers of regulation and control of said lands and navigable waters for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically recognized, confirmed, established, and vested in and assigned to the respective States and others by section 1311 of this title.

(b) In time of war or when necessary for national defense, and the Congress or the President shall so prescribe, the United States shall have the right of first refusal to

purchase at the prevailing market price, all or any portion of the said natural resources, or to acquire and use any portion of said lands by proceeding in accordance with due process of law and paying just compensation therefor.

(May 22, 1953, ch. 65, title II, §6, 67 Stat. 32.)

### **§1315. Rights acquired under laws of United States unaffected**

Nothing contained in this subchapter or subchapter I of this chapter shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this subchapter or subchapter I of this chapter and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: Provided, however, That nothing contained in this subchapter or subchapter I of this chapter is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact or in law applies to the lands subject to this subchapter or subchapter I of this chapter, or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything contained in this subchapter or subchapter I of this chapter.

(May 22, 1953, ch. 65, title II, §8, 67 Stat. 32.)

## **SUBCHAPTER III—OUTER CONTINENTAL SHELF LANDS**

### **§1331. Definitions**

When used in this subchapter—

(a) The term “outer Continental Shelf” means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 1301 of this title, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(b) The term “Secretary” means the Secretary of the Interior, except that with respect to functions under this subchapter transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term “Secretary” means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be;

(c) The term “lease” means any form of authorization which is issued under section 1337 of this title or maintained under section 1335 of this title and which authorizes exploration for, and development and production of, minerals;

(d) The term “person” includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation;

(e) The term “coastal zone” means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 1454(b)(1)<sup>1</sup> of title 16;

(f) The term “affected State” means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of this subchapter, any State—

(1) the laws of which are declared, pursuant to section 1333(a)(2) of this title, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

(2) which is, or is proposed to be, directly connected by transportation facilities to any artificial island or structure referred to in section 1333(a)(1) of this title;

(3) which is receiving, or in accordance<sup>2</sup> with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

(g) The term “marine environment” means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity,

state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

(h) The term “coastal environment” means the physical atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

(i) The term “human environment” means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

(j) The term “Governor” means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this subchapter;

(k) The term “exploration” means the process of searching for minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

(l) The term “development” means those activities which take place following discovery of minerals in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the minerals discovered;

(m) The term “production” means those activities which take place after the successful completion of any means for the removal of minerals, including such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and work-over drilling;

(n) The term “antitrust law” means—

(1) the Sherman Act (15 U.S.C. 1 et seq.);

(2) the Clayton Act (15 U.S.C. 12 et seq.);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

(o) The term “fair market value” means the value of any mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

(p) The term “major Federal action” means any action or proposal by the Secretary which is subject to the provisions of section 4332(2)(C) of title 42; and

(q) The term “minerals” includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from “public lands” as defined in section 1702 of this title.

(Aug. 7, 1953, ch. 345, §2, 67 Stat. 462; Pub. L. 95–372, title II, §201, Sept. 18, 1978, 92 Stat. 632.)

### **References in Text**

The Department of Energy Organization Act, referred to in subsec. (b), is Pub. L. 95–91, Aug. 4, 1977, 91 Stat. 565, as amended, which is classified principally to chapter 84 (§7101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of Title 42 and Tables.

Section 1454(b) of title 16, referred to in subsec. (e), was amended generally by Pub. L. 101–508, title VI, §6205, Nov. 5, 1990, 104 Stat. 1388–302, and, as so amended, does not contain a par. (1).

The Sherman Act, referred to in subsec. (n)(1), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, which enacted sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act, referred to in subsec. (n)(2), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of



Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in subsec. (n)(3), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

The Wilson Tariff Act, referred to in subsec. (n)(4), is act Aug. 27, 1894, ch. 349, §§73 to 77, 28 Stat. 570, as amended. Sections 73 to 76 enacted sections 8 to 11 of Title 15. Section 77 is not classified to the Code. For complete classification of this Act to the Code, see Short Title note set out under section 8 of Title 15 and Tables.

Act of June 19, 1936, referred to in subsec. (n)(5), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Act, the Robinson-Patman Antidiscrimination Act, and the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

### **Amendments**

**1978**—Subsec. (b). Pub. L. 95–372, §201(a), inserted provision that, with respect to functions under this subchapter transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act, “Secretary” means the Secretary of Energy or the Federal Energy Regulatory Commission, as the case may be.

Subsec. (c). Pub. L. 95–372, §201(a), substituted “lease” for “mineral lease” as term defined and in definition of that term substituted “any form of authorization which is issued under section 1337 of this title or maintained under section 1335 of this title and which authorizes exploration for, and development and production of, minerals;” for “any form of authorization for the exploration for, or development or removal of deposits of, oil, gas, or other minerals; and”.

Subsec. (d). Pub. L. 95–372, §201(b)(1), substituted semicolon for period at end.

Subsecs. (e) to (q). Pub. L. 95–372, §201(b)(2), added subsecs. (e) to (q).

### **Short Title of 1978 Amendment**

For short title of Pub. L. 95–372 as the “Outer Continental Shelf Lands Act Amendments of 1978”, see section 1 of Pub. L. 95–372, set out as a Short Title note under section 1801 of this title.

### **Short Title**

For short title of act Aug. 7, 1953, which enacted this subchapter, as the “Outer Continental Shelf Lands Act”, see section 1 of act Aug. 7, 1953, set out as a note under section 1301 of this chapter.

### **Separability**

Section 17 of act Aug. 7, 1953, provided that: “If any provision of this Act [enacting this subchapter], or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby.”

### **Transfer of Functions**

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

### **Gulf of Mexico Energy Security**

Pub. L. 109–432, div. C, title I, Dec. 20, 2006, 120 Stat. 3000, provided that:

#### **§101. SHORT TITLE.**

This title may be cited as the ‘Gulf of Mexico Energy Security Act of 2006’.

#### **§102. DEFINITIONS.**

In this title:

(1) 181 area.—The term ‘181 Area’ means the area identified in map 15, page 58, of the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Minerals Management Service, available in the Office of the Director of the Minerals Management Service, excluding the area offered in OCS Lease Sale 181, held on December 5, 2001.

(2) 181 south area.—The term ‘181 South Area’ means any area—

(A) located—

(i) south of the 181 Area;

(ii) west of the Military Mission Line; and

(iii) in the Central Planning Area;

(B) excluded from the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Minerals Management Service; and

(C) included in the areas considered for oil and gas leasing, as identified in map 8, page 37 of the document entitled ‘Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012’, dated February 2006.

(3) Bonus or royalty credit.—The term ‘bonus or royalty credit’ means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(A) a bonus bid for a lease on the outer Continental Shelf; or

(B) a royalty due on oil or gas production from any lease located on the outer Continental Shelf.

(4) Central planning area.—The term ‘Central Planning Area’ means the Central Gulf of Mexico Planning Area of the outer Continental Shelf, as designated in the document entitled ‘Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012’, dated February 2006.

(5) Eastern planning area.—The term ‘Eastern Planning Area’ means the Eastern Gulf of Mexico Planning Area of the outer Continental Shelf, as designated in the document entitled ‘Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012’, dated February 2006.

(6) 2002–2007 planning area.—The term ‘2002–2007 planning area’ means any area—

(A) located in—

(i) the Eastern Planning Area, as designated in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program 2002–2007, dated April 2002, of the Minerals Management Service;

(ii) the Central Planning Area, as designated in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program 2002–2007, dated April 2002, of the Minerals Management Service; or

(iii) the Western Planning Area, as designated in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program 2002–2007, dated April 2002, of the Minerals Management Service; and

(B) not located in—

(i) an area in which no funds may be expended to conduct offshore preleasing, leasing, and related activities under sections 104 through 106 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 521) (as in effect on August 2, 2005);

(ii) an area withdrawn from leasing under the ‘Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition’, from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998; or

(iii) the 181 Area or 181 South Area.

(7) Gulf producing state.—The term ‘Gulf producing State’ means each of the States of Alabama, Louisiana, Mississippi, and Texas.

(8) Military mission line.—The term ‘Military Mission Line’ means the north-south line at 86°41’ W. longitude.

(9) Qualified outer continental shelf revenues.—

(A) In general.—The term ‘qualified outer Continental Shelf revenues’ means—

(i) in the case of each of fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act [Dec. 20, 2006] for—

(I) areas in the 181 Area located in the Eastern Planning Area; and

(II) the 181 South Area; and

(ii) in the case of fiscal year 2017 and each fiscal year thereafter, all rentals, royalties, bonus bids, and other sums due and payable to the United States received on or after October 1, 2016, from leases entered into on or after the date of enactment of this Act for—

(I) the 181 Area;

(II) the 181 South Area; and

(III) the 2002–2007 planning area.

(B) Exclusions.—The term ‘qualified outer Continental Shelf revenues’ does not include—

(i) revenues from the forfeiture of a bond or other surety securing obligations other than royalties, civil penalties, or royalties taken by the Secretary in-kind and not sold; or

(ii) revenues generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)).

(10) Coastal political subdivision.—The term ‘coastal political subdivision’ means a political subdivision of a Gulf producing State any part of which political subdivision is—

(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Gulf producing State as of the date of enactment of this Act [Dec. 20, 2006]; and

(B) not more than 200 nautical miles from the geographic center of any leased tract.

(11) Secretary.—The term ‘Secretary’ means the Secretary of the Interior.

### **§103. OFFSHORE OIL AND GAS LEASING IN 181 AREA AND 181 SOUTH AREA OF GULF OF MEXICO.**

(a) 181 Area Lease Sale.—Except as provided in section 104, the Secretary shall offer the 181 Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) as soon as practicable, but not later than 1 year, after the date of enactment of this Act [Dec. 20, 2006].

(b) 181 South Area Lease Sale.—The Secretary shall offer the 181 South Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) as soon as practicable after the date of enactment of this Act [Dec. 20, 2006].

(c) Leasing Program.—The 181 Area and 181 South Area shall be offered for lease under this section notwithstanding the omission of the 181 Area or the 181 South Area from any outer Continental Shelf leasing program under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344).

(d) Conforming Amendment.—[Amended section 105 of Pub. L. 109–54, 119 Stat. 522.]

**§104. MORATORIUM ON OIL AND GAS LEASING IN CERTAIN AREAS OF GULF OF MEXICO.**

(a) In General.—Effective during the period beginning on the date of enactment of this Act [Dec. 20, 2006] and ending on June 30, 2022, the Secretary shall not offer for leasing, preleasing, or any related activity—

(1) any area east of the Military Mission Line in the Gulf of Mexico;

(2) any area in the Eastern Planning Area that is within 125 miles of the coastline of the State of Florida; or

(3) any area in the Central Planning Area that is—

(A) within—

(i) the 181 Area; and

(ii) 100 miles of the coastline of the State of Florida; or

(B)(i) outside the 181 Area;

(ii) east of the western edge of the Pensacola Official Protraction Diagram (UTM X coordinate 1,393,920 (NAD 27 feet)); and

(iii) within 100 miles of the coastline of the State of Florida.

(b) Military Mission Line.—Notwithstanding subsection (a), the United States reserves the right to designate by and through the Secretary of Defense, with the approval of the President, national defense areas on the outer Continental Shelf pursuant to section 12(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).

(c) Exchange of Certain Leases.—

(1) In general.—The Secretary shall permit any person that, as of the date of enactment of this Act [Dec. 20, 2006], has entered into an oil or gas lease with the Secretary in any

area described in paragraph (2) or (3) of subsection (a) to exchange the lease for a bonus or royalty credit that may only be used in the Gulf of Mexico.

(2) Valuation of existing lease.—The amount of the bonus or royalty credit for a lease to be exchanged shall be equal to—

(A) the amount of the bonus bid; and

(B) any rental paid for the lease as of the date the lessee notifies the Secretary of the decision to exchange the lease.

(3) Revenue distribution.—No bonus or royalty credit may be used under this subsection in lieu of any payment due under, or to acquire any interest in, a lease subject to the revenue distribution provisions of section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)).

(4) Regulations.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that shall provide a process for—

(A) notification to the Secretary of a decision to exchange an eligible lease;

(B) issuance of bonus or royalty credits in exchange for relinquishment of the existing lease;

(C) transfer of the bonus or royalty credit to any other person; and

(D) determining the proper allocation of bonus or royalty credits to each lease interest owner.

**§105. DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM 181 AREA, 181 SOUTH AREA, AND 2002–2007 PLANNING AREAS OF GULF OF MEXICO.**

(a) In General.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) and subject to the other provisions of this section, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

(1) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

(2) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

(A) 75 percent to Gulf producing States in accordance with subsection (b); and

(B) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 4601–5).

(b) Allocation Among Gulf Producing States and Coastal Political Subdivisions.—

(1) Allocation among gulf producing states for fiscal years 2007 through 2016.—

(A) In general.—Subject to subparagraph (B), effective for each of fiscal years 2007 through 2016, the amount made available under subsection (a)(2)(A) shall be allocated to each Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract.

(B) Minimum allocation.—The amount allocated to a Gulf producing State each fiscal year under subparagraph (A) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

(2) Allocation among gulf producing states for fiscal year 2017 and thereafter.—

(A) In general.—Subject to subparagraphs (B) and (C), effective for fiscal year 2017 and each fiscal year thereafter—

(i) the amount made available under subsection (a)(2)(A) from any lease entered into within the 181 Area or the 181 South Area shall be allocated to each Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract; and

(ii) the amount made available under subsection (a)(2)(A) from any lease entered into within the 2002–2007 planning area shall be allocated to each Gulf producing State in amounts that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of each historical lease site and the geographic center of the historical lease site, as determined by the Secretary.

(B) Minimum allocation.—The amount allocated to a Gulf producing State each fiscal year under subparagraph (A) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).



(C) Historical lease sites.—

(i) In general.—Subject to clause (ii), for purposes of subparagraph (A)(ii), the historical lease sites in the 2002–2007 planning area shall include all leases entered into by the Secretary for an area in the Gulf of Mexico during the period beginning on October 1, 1982 (or an earlier date if practicable, as determined by the Secretary), and ending on December 31, 2015.

(ii) Adjustment.—Effective January 1, 2022, and every 5 years thereafter, the ending date described in clause (i) shall be extended for an additional 5 calendar years.

(3) Payments to coastal political subdivisions.—

(A) In general.—The Secretary shall pay 20 percent of the allocable share of each Gulf producing State, as determined under paragraphs (1) and (2), to the coastal political subdivisions of the Gulf producing State.

(B) Allocation.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B), (C), and (E) of section 31(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(b)(4)).

(c) Timing.—The amounts required to be deposited under paragraph (2) of subsection (a) for the applicable fiscal year shall be made available in accordance with that paragraph during the fiscal year immediately following the applicable fiscal year.

(d) Authorized Uses.—

(1) In general.—Subject to paragraph (2), each Gulf producing State and coastal political subdivision shall use all amounts received under subsection (b) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

(A) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

(B) Mitigation of damage to fish, wildlife, or natural resources.

(C) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

(D) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

(E) Planning assistance and the administrative costs of complying with this section.

(2) Limitation.—Not more than 3 percent of amounts received by a Gulf producing State or coastal political subdivision under subsection (b) may be used for the purposes described in paragraph (1)(E).

(e) Administration.—Amounts made available under subsection (a)(2) shall—

(1) be made available, without further appropriation, in accordance with this section;

(2) remain available until expended; and

(3) be in addition to any amounts appropriated under—

(A) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(B) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.); or

(C) any other provision of law.

(f) Limitations on Amount of Distributed Qualified Outer Continental Shelf Revenues.—

(1) In general.—Subject to paragraph (2), the total amount of qualified outer Continental Shelf revenues made available under subsection (a)(2) shall not exceed \$500,000,000 for each of fiscal years 2016 through 2055.

(2) Expenditures.—For the purpose of paragraph (1), for each of fiscal years 2016 through 2055, expenditures under subsection (a)(2) shall be net of receipts from that fiscal year from any area in the 181 Area in the Eastern Planning Area and the 181 South Area.

(3) Pro rata reductions.—If paragraph (1) limits the amount of qualified outer Continental Shelf revenue that would be paid under subparagraphs (A) and (B) of subsection (a)(2)—

(A) the Secretary shall reduce the amount of qualified outer Continental Shelf revenue provided to each recipient on a pro rata basis; and

(B) any remainder of the qualified outer Continental Shelf revenues shall revert to the general fund of the Treasury.

### **Naval Petroleum Reserve**

Section 13 of act Aug. 7, 1953, revoked Ex. Ord. No. 10426, Jan. 16, 1953, 18 F.R. 405, which had set aside certain submerged lands as a naval petroleum reserve and had transferred functions with respect thereto from the Secretary of the Interior to the Secretary of the Navy.

### **Authorization of Appropriations**

Section 16 of act Aug. 7, 1953, provided that: "There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [enacting this subchapter]."

### **Proc. No. 5928. Territorial Sea of United States**

Proc. No. 5928, Dec. 27, 1988, 54 F.R. 777, provided:

International law recognizes that coastal nations may exercise sovereignty and jurisdiction over their territorial seas.

The territorial sea of the United States is a maritime zone extending beyond the land territory and internal waters of the United States over which the United States exercises sovereignty and jurisdiction, a sovereignty and jurisdiction that extend to the airspace over the territorial sea, as well as to its bed and subsoil.

Extension of the territorial sea by the United States to the limits permitted by international law will advance the national security and other significant interests of the United States.

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution of the United States of America, and in accordance with international law, do hereby proclaim the extension of the territorial sea of the United States of America, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over which the United States exercises sovereignty.

The territorial sea of the United States henceforth extends to 12 nautical miles from the baselines of the United States determined in accordance with international law.

In accordance with international law, as reflected in the applicable provisions of the 1982 United Nations Convention on the Law of the Sea, within the territorial sea of the United States, the ships of all countries enjoy the right of innocent passage and the ships and aircraft of all countries enjoy the right of transit passage through international straits.

Nothing in this Proclamation:

(a) extends or otherwise alters existing Federal or State law or any jurisdiction, rights, legal interests, or obligations derived therefrom; or

(b) impairs the determination, in accordance with international law, of any maritime boundary of the United States with a foreign jurisdiction.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of December, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

Ronald Reagan.

**Proc. No. 7219. Contiguous Zone of the United States**

Proc. No. 7219, Sept. 2, 1999, 64 F.R. 48701, 49844, provided:

International law recognizes that coastal nations may establish zones contiguous to their territorial seas, known as contiguous zones.

The contiguous zone of the United States is a zone contiguous to the territorial sea of the United States, in which the United States may exercise the control necessary to prevent infringement of its customs, fiscal, immigration, or sanitary laws and regulations within its territory or territorial sea, and to punish infringement of the above laws and regulations committed within its territory or territorial sea.

Extension of the contiguous zone of the United States to the limits permitted by international law will advance the law enforcement and public health interests of the United States. Moreover, this extension is an important step in preventing the removal of cultural heritage found within 24 nautical miles of the baseline.

NOW, THEREFORE, I, WILLIAM J. CLINTON, by the authority vested in me as President by the Constitution of the United States, and in accordance with international law, do hereby proclaim the extension of the contiguous zone of the United States of America, including the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over which the United States exercises sovereignty, as follows:

The contiguous zone of the United States extends to 24 nautical miles from the baselines of the United States determined in accordance with international law, but in no case within the territorial sea of another nation.

In accordance with international law, reflected in the applicable provisions of the 1982 Convention on the Law of the Sea, within the contiguous zone of the United States the

ships and aircraft of all countries enjoy the high seas freedoms of navigation and overflight and the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to those freedoms, such as those associated with the operation of ships, aircraft, and submarine cables and pipelines, and compatible with the other provisions of international law reflected in the 1982 Convention on the Law of the Sea.

Nothing in this proclamation:

(a) amends existing Federal or State law;

(b) amends or otherwise alters the rights and duties of the United States or other nations in the Exclusive Economic Zone of the United States established by Proclamation 5030 of March 10, 1983 [16 U.S.C. 1453 note]; or

(c) impairs the determination, in accordance with international law, of any maritime boundary of the United States with a foreign jurisdiction.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of September, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.

William J. Clinton.

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

<sup>2</sup> So in original. Probably should be “accordance”.

### **§1332. Congressional declaration of policy**

It is hereby declared to be the policy of the United States that—

(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this subchapter;

(2) this subchapter shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

(4) since exploration, development, and production of the minerals of the outer Continental Shelf will have significant impacts on coastal and non-coastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts;

(B) the distribution of a portion of the receipts from the leasing of mineral resources of the outer Continental Shelf adjacent to State lands, as provided under section 1337(g) of this title, will provide affected coastal States and localities with funds which may be used for the mitigation of adverse economic and environmental effects related to the development of such resources; and

(C) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, minerals of the outer Continental Shelf.<sup>1</sup>

(5) the rights and responsibilities of all States and, where appropriate, local governments, to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

(6) operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.

(Aug. 7, 1953, ch. 345, §3, 67 Stat. 462; Pub. L. 95–372, title II, §202, Sept. 18, 1978, 92 Stat. 634; Pub. L. 99–272, title VIII, §8002, Apr. 7, 1986, 100 Stat. 148.)

### **Amendments**

**1986**—Par. (4)(B), (C). Pub. L. 99–272 added subpar. (B) and redesignated former subpar. (B) as (C).

**1978**—Pub. L. 95–372 redesignated subsecs. (a) and (b) as pars. (1) and (2) and added pars. (3) to (6).

<sup>1</sup> So in original. The period probably should be a semicolon.

**§1333. Laws and regulations governing lands****(a) Constitution and United States laws; laws of adjacent States; publication of projected State lines; international boundary disputes; restriction on State taxation and jurisdiction**

(1) The Constitution and laws and civil and political jurisdiction of the United States are extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands, and all installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: Provided, however, That mineral leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this subchapter.

(2)(A) To the extent that they are applicable and not inconsistent with this subchapter or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State, now in effect or hereafter adopted, amended, or repealed are declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

(B) Within one year after September 18, 1978, the President shall establish procedures for setting<sup>1</sup> any outstanding international boundary dispute respecting the outer Continental Shelf.

(3) The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

**(b) Longshore and Harbor Workers' Compensation Act applicable; definitions**

With respect to disability or death of an employee resulting from any injury occurring as the result of operations conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing, or transporting by pipeline the natural resources, or involving rights to the natural resources, of the subsoil and seabed of the outer Continental Shelf, compensation shall be payable under the provisions of the Longshore

and Harbor Workers' Compensation Act [33 U.S.C. 901 et seq.]. For the purposes of the extension of the provisions of the Longshore and Harbor Workers' Compensation Act under this section—

(1) the term “employee” does not include a master or member of a crew of any vessel, or an officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term “employer” means an employer any of whose employees are employed in such operations; and

(3) the term “United States” when used in a geographical sense includes the outer Continental Shelf and artificial islands and fixed structures thereon.

**(c) National Labor Relations Act applicable**

For the purposes of the National Labor Relations Act, as amended [29 U.S.C. 151 et seq.], any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.

**(d) Coast Guard regulations; marking of artificial islands, installations, and other devices; failure of owner suitably to mark according to regulations**

(1) The Secretary of the Department in which the Coast Guard is operating shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the artificial islands, installations, and other devices referred to in subsection (a) of this section or on the waters adjacent thereto, as he may deem necessary.

(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) of this section whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this subchapter, and the owner shall pay the cost of such marking.

**(e) Authority of Secretary of the Army to prevent obstruction to navigation**



The authority of the Secretary of the Army to prevent obstruction to navigation in the navigable waters of the United States is extended to the artificial islands, installations, and other devices referred to in subsection (a) of this section.

**(f) Provisions as nonexclusive**

The specific application by this section of certain provisions of law to the subsoil and seabed of the outer Continental Shelf and the artificial islands, installations, and other devices referred to in subsection (a) of this section or to acts or offenses occurring or committed thereon shall not give rise to any inference that the application to such islands and structures, acts, or offenses of any other provision of law is not intended.

(Aug. 7, 1953, ch. 345, §4, 67 Stat. 462; Pub. L. 93–627, §19(f), Jan. 3, 1975, 88 Stat. 2146; Pub. L. 95–372, title II, §203, Sept. 18, 1978, 92 Stat. 635; Pub. L. 98–426, §27(d)(2), Sept. 28, 1984, 98 Stat. 1654.)

**References in Text**

The Longshore and Harbor Workers' Compensation Act, referred to in subsec. (b), is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, as amended, which is classified generally to chapter 18 (§901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables.

The National Labor Relations Act, as amended, referred to in subsec. (c), is act July 5, 1935, ch. 372, 49 Stat. 449, as amended, which is classified generally to subchapter II (§151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

**Amendments**

**1984**—Subsec. (b). Pub. L. 98–426 substituted “Longshore and Harbor Workers’ Compensation Act” for “Longshoremen's and Harbor Workers’ Compensation Act”.

**1978**—Subsec. (a)(1). Pub. L. 95–372, §203(a), substituted “, and all installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources,” for “and fixed structures which may be erected thereon for the purpose of exploring for, developing, removing, and transporting resources therefrom,”.

Subsec. (a)(2). Pub. L. 95–372, §203(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b). Pub. L. 95-372, §203(c), (h), redesignated subsec. (c) as (b) and substituted “conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing, or transporting by pipeline the natural resources, or involving rights to the natural resources, of the subsoil and seabed of the outer Continental Shelf,” for “described in subsection (b) of this section.” Former subsec. (b), relating to the jurisdiction of United States district courts over cases and controversies arising out of or in connection with operations conducted on the outer Continental Shelf, was struck out. See section 1349(b) of this title.

Subsec. (c). Pub. L. 95-372, §203(d), (h), redesignated subsec. (d) as (c) and substituted “artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device” for “artificial island or fixed structure referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the adjacent State nearest the place of location of such island or structure”. Former subsec. (c) redesignated (b).

Subsec. (d)(1). Pub. L. 95-372, §203(e)(1), (f), (h), redesignated subsec. (e)(1) as (d)(1), substituted “Secretary” for “head” and “artificial islands, installations, and other devices” for “islands and structures”. Former subsec. (d) redesignated (c).

Subsec. (d)(2). Pub. L. 95-372, §203(g), (h), redesignated subsec. (e)(2) as (d)(2) and substituted “Secretary” for “head” and “artificial island, installation, or other device referred to in subsection (a) of this section whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this subchapter, and the owner shall pay the cost of such marking” for “such island or structure whenever the owner has failed suitably to mark the same in accordance with regulations issued hereunder, and the owner shall pay the cost thereof”, and struck out provisions which had made failure or refusal to obey any lawful rules and regulations a misdemeanor punishable by a fine of not more than \$100, with each day during which such a violation would continue to be deemed a new offense. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 95-372, §203(e)(2), (h), redesignated subsec. (f) as (e) and substituted “the artificial islands, installations, and other devices referred to in subsection (a) of this section” for “artificial islands and fixed structures located on the outer Continental Shelf”. Former subsec. (e) redesignated (d).

Subsecs. (f), (g). Pub. L. 95-372, §203(e)(3), (h), redesignated subsec. (g) as (f) and substituted “the artificial islands, installations, and other devices” for “the artificial islands and fixed structures”. Former subsec. (f) redesignated (e).

**1975**—Subsec. (a)(2). Pub. L. 93–627 substituted “now in effect or hereafter adopted, amended, or repealed” for “as of the effective date of this Act” in first sentence.

### **Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

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

### **§1334. Administration of leasing**

#### **(a) Rules and regulations; amendment; cooperation with State agencies; subject matter and scope of regulations**

The Secretary shall administer the provisions of this subchapter relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this subchapter. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General with respect to matters which may affect competition. In considering any regulations and in preparing any such views, the Attorney General shall consult with the Federal Trade Commission. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the national interest, to facilitate proper development of a lease or to allow for the construction or negotiation for use of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by suspension or prohibition under clause (A) or (B) by a period equivalent to the period of

such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued with respect to such lease or permit;

(2) with respect to cancellation of any lease or permit—

(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment;

(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit force;

(B) that such cancellation shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease or permit term continuously for a period of five years, or for a lesser period upon request of the lessee;

(C) that such cancellation shall entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (i) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oilspill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement), except that (I) with respect to leases issued before September 18, 1978, such compensation shall be equal to the amount specified in clause (i) of this subparagraph; and (II) in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question;

(3) for the assignment or relinquishment of a lease;

- (4) for unitization, pooling, and drilling agreements;
- (5) for the subsurface storage of oil and gas from any source other than by the Federal Government;
- (6) for drilling or easements necessary for exploration, development, and production;
- (7) for the prompt and efficient exploration and development of a lease area; and
- (8) for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), to the extent that activities authorized under this subchapter significantly affect the air quality of any State.

**(b) Compliance with regulations as condition for issuance, continuation, assignment, or other transfer of leases**

The issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions of this subchapter shall be conditioned upon compliance with regulations issued under this subchapter.

**(c) Cancellation of nonproducing lease**

Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this subchapter, or of the lease, or of the regulations issued under this subchapter, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this subchapter, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

**(d) Cancellation of producing lease**

Whenever the owner of any producing lease fails to comply with any of the provisions of this subchapter, of the lease, or of the regulations issued under this subchapter, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this subchapter.

**(e) Pipeline rights-of-way; forfeiture of grant**

Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this subchapter, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other minerals, or under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 1347(b) of this title) assuring maximum environmental protection by utilization of the best available and safest

technologies, including the safest practices for pipeline burial and upon the express condition that oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from submerged lands or outer Continental Shelf lands in the vicinity of the pipelines in such proportionate amounts as the Federal Energy Regulatory Commission, in consultation with the Secretary of Energy, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be grounds for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this subchapter.

**(f) Competitive principles governing pipeline operation**

(1) Except as provided in paragraph (2), every permit, license, easement, right-of-way, or other grant of authority for the transportation by pipeline on or across the outer Continental Shelf of oil or gas shall require that the pipeline be operated in accordance with the following competitive principles:

(A) The pipeline must provide open and nondiscriminatory access to both owner and nonowner shippers.

(B) Upon the specific request of one or more owner or nonowner shippers able to provide a guaranteed level of throughput, and on the condition that the shipper or shippers requesting such expansion shall be responsible for bearing their proportionate share of the costs and risks related thereto, the Federal Energy Regulatory Commission may, upon finding, after a full hearing with due notice thereof to the interested parties, that such expansion is within technological limits and economic feasibility, order a subsequent expansion of throughput capacity of any pipeline for which the permit, license, easement, right-of-way, or other grant of authority is approved or issued after September 18, 1978. This subparagraph<sup>1</sup> shall not apply to any such grant of authority approved or issued for the Gulf of Mexico or the Santa Barbara Channel.

(2) The Federal Energy Regulatory Commission may, by order or regulation, exempt from any or all of the requirements of paragraph (1) of this subsection any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or a facility where oil and gas are first separated, dehydrated, or otherwise processed.

(3) The Secretary of Energy and the Federal Energy Regulatory Commission shall consult with and give due consideration to the views of the Attorney General on specific conditions to be included in any permit, license, easement, right-of-way, or grant of authority in order to ensure that pipelines are operated in accordance with the competitive principles set forth in paragraph (1) of this subsection. In preparing any such views, the Attorney General shall consult with the Federal Trade Commission.

(4) Nothing in this subsection shall be deemed to limit, abridge, or modify any authority of the United States under any other provision of law with respect to pipelines on or across the outer Continental Shelf.

**(g) Rates of production**

(1) The lessee<sup>2</sup> shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary of Energy which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

**(h) Federal action affecting outer Continental Shelf; notification; recommended changes**

The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify the Governor of any affected State and the Secretary may thereafter recommend such changes in such action as are considered appropriate.

**(i) Flaring of natural gas**

After September 18, 1978, no holder of any oil and gas lease issued or maintained pursuant to this subchapter shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.

**(j) Cooperative development of common hydrocarbon-bearing areas**

**(1) Findings**

(A)<sup>3</sup> The Congress of the United States finds that the unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing geological area underlying the Federal and State boundary may result in a number of harmful national effects, including—

(i) the drilling of unnecessary wells, the installation of unnecessary facilities and other imprudent operating practices that result in economic waste, environmental damage, and damage to life and property;

(ii) the physical waste of hydrocarbons and an unnecessary reduction in the amounts of hydrocarbons that can be produced from certain hydrocarbon-bearing areas; and

(iii) the loss of correlative rights which can result in the reduced value of national hydrocarbon resources and disorders in the leasing of Federal and State resources.

## **(2) Prevention of harmful effects**

The Secretary shall prevent, through the cooperative development of an area, the harmful effects of unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying the Federal and State boundary.

(Aug. 7, 1953, ch. 345, §5, 67 Stat. 464; Pub. L. 95–372, title II, §204, Sept. 18, 1978, 92 Stat. 636; Pub. L. 101–380, title VI, §6004(a), Aug. 18, 1990, 104 Stat. 558; Pub. L. 109–58, title III, §321(a), Aug. 8, 2005, 119 Stat. 694.)

## **References in Text**

The Clean Air Act, referred to in subsec. (a)(8), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

## **Amendments**

**2005**—Subsec. (a)(5). Pub. L. 109–58 inserted “from any source” after “oil and gas”.

**1990**—Subsec. (j). Pub. L. 101–380 added subsec. (j).

**1978**—Subsec. (a). Pub. L. 95–372 expanded provisions formerly contained in subsec. (a)(1) so as to include the enforcement of safety and environmental laws and regulations, consultation with the Attorney General and the Federal Trade Commission, and regulations for the suspension or temporary prohibition of any operation or activity including production, the cancellation of leases or permits, the prompt and efficient exploration and development of a lease area, and compliance with the national ambient air quality standards to the extent that activities authorized significantly affect the air quality of any State.

Subsec. (b). Pub. L. 95–372 redesignated as subsec. (b) provisions formerly contained in subsec. (a)(2) conditioning the issuance and continuation of leases or of assignments or



other transfers of leases upon compliance with regulations, and struck out provisions that had set a penalty of a fine of not more than \$2,000 or imprisonment for not more than six months or both for the knowing and willful violation of rules or regulations promulgated by the Secretary. See section 1350 of this title.

Subsec. (c). Pub. L. 95–372 redesignated as subsec. (c) provisions formerly contained in subsec. (b)(1) covering the cancellation of nonproducing leases for failure of the owner to comply with any of the provisions of this subchapter, or of the lease, or of the regulations issued under this subchapter.

Subsec. (d). Pub. L. 95–372 redesignated as subsec. (d) provisions formerly contained in subsec. (b)(2) covering the cancellation and forfeiture of producing leases for failure of the owner to comply with any of the provisions of this subchapter, the lease, or regulations promulgated under this subchapter.

Subsec. (e). Pub. L. 95–372 redesignated as subsec. (e) provisions formerly contained in subsec. (c) relating to pipeline rights-of-way and inserted provisions relating to regulations prescribed by the Secretary of Transportation and assurances of maximum environmental protection through the use of the best available and safest technologies including the safest practices for pipeline burial, and substituted references to the Federal Energy Regulatory Commission and the Secretary of Energy for existing references to the Federal Power Commission and the Interstate Commerce Commission.

Subsecs. (f) to (i). Pub. L. 95–372 added subsecs. (f) to (i).

### **Effective Date of 1990 Amendment**

Amendment by Pub. L. 101–380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101–380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

### **Transfer of Functions**

Functions vested in, or delegated to, Secretary of Energy and Department of Energy under or with respect to subsec. (g)(2) of this section, transferred to, and vested in, Secretary of the Interior, by section 100 of Pub. L. 97–257, 96 Stat. 841, set out as a note under section 7152 of Title 42, The Public Health and Welfare.

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy

by section 7152(b) of Title 42. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

### **West Delta Field**

Section 6004(b) of Pub. L. 101–380 provided that: “Section 5(j) of the Outer Continental Shelf Lands Act [43 U.S.C. 1334(j)], as added by this section, shall not be applicable with respect to Blocks 17 and 18 of the West Delta Field offshore Louisiana.”

### **Key Largo Coral Reef Preserve**

Secretary of the Interior to prescribe rules and regulations governing the protection and conservation of the coral and other mineral resources in the area designated Key Largo Coral Reef Preserve, see Proc. No. 3339, Mar. 15, 1960, 25 F.R. 2352, set out as a note under section 461 of Title 16, Conservation.

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

<sup>2</sup> So in original. Probably should be “lessee”.

<sup>3</sup> So in original. No subpar. (B) has been enacted.

## **§1335. Validation and maintenance of prior leases**

### **(a) Requirements for validation**

The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from August 7, 1953, or within such further period or periods as provided in section 1336 of this title or as may be fixed from time to time by the Secretary;

(2) such lease was issued prior to December 21, 1948, and would have been on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it had the State had the authority to issue such lease;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having

jurisdiction over such lease stating that it would have been in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease would have been so in force and effect;

(4) except as otherwise provided in section 1336 of this title hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and August 7, 1953, which have not been paid in accordance with the provisions thereof, or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection, and all rents, royalties, and other sums payable under such lease after August 7, 1953, are paid to the Secretary, who shall deposit such payments in the Treasury in accordance with section 1338 of this title;

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on August 7, 1953;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

(8) such lease provides for a royalty to the lessor on oil and gas of not less than 12 1/2 per centum and on sulphur of not less than 5 per centum in amount or value of the production saved, removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and August 7, 1953 and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production, or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on August 7, 1953;

(10) such lease will terminate within a period of not more than five years from August 7, 1953 in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

(11) the holder of such lease furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirements as the Secretary may deem necessary to protect the interests of the United States.

**(b) Conduct of operations under lease; sulphur rights**

Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to the area, the minerals covered, rentals and, subject to the provisions of paragraphs (8)–(10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing such lease, or, if oil or gas was not being produced in paying quantities from such lease on or before December 11, 1950, or if production in paying quantities has ceased since June 5, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from August 7, 1953 equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under section 1334 of this title prescribe within ninety days after making his determination that such lease meets the requirements of subsection (a) of this section: Provided, however, That any rights to sulphur under any lease maintained under the provisions of this subsection shall not extend beyond the primary term of such lease or any extension thereof under the provisions of this subsection unless sulphur is being produced in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by such lease on the date of expiration of such primary term or extension: Provided further, That if sulphur is being produced in paying quantities on such date, then such rights shall continue to be maintained in accordance with such lease and the provisions of this subchapter: Provided further, That, if the primary term of a lease being maintained under this subsection has expired prior to August 7, 1953 and oil or gas is being produced in paying quantities on such date, then such rights to sulphur as the lessee may have under such lease shall continue for twenty-four months from August 7, 1953 and as long thereafter as sulphur is produced in paying quantities, or drilling, well working, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by the lease.

**(c) Nonwaiver of United States claims**

The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to August 7, 1953.

**(d) Judicial review of determination**

Any person complaining of a negative determination by the Secretary of the Interior under this section may have such determination reviewed by the United States District Court for the District of Columbia by filing a petition for review within sixty days after receiving notice of such action by the Secretary.

**(e) Lands beneath navigable waters**

In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in the Submerged Lands Act [43 U.S.C. 1301 et seq.], as well as lands of the outer Continental Shelf, the provisions of this section shall apply to such lease only insofar as it covers lands of the outer Continental Shelf.

(Aug. 7, 1953, ch. 345, §6, 67 Stat. 465.)

**References in Text**

The Submerged Lands Act, referred to in subsec. (e), is act May 22, 1953, ch. 65, 67 Stat. 29, which is classified generally to subchapters I (§1301 et seq.) and II (§1311 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

**Transfer of Functions**

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97-100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97-315, pp. 25, 26, Nov. 5, 1981.

**§1336. Controversies over jurisdiction; agreements; payments; final settlement or adjudication; approval of notice concerning oil and gas operations in Gulf of Mexico**

In the event of a controversy between the United States and a State as to whether or not lands are subject to the provisions of this subchapter, the Secretary is authorized, notwithstanding the provisions of section 1335(a) and (b) of this title and with the concurrence of the Attorney General of the United States, to negotiate and enter into

agreements with the State, its political subdivision or grantee or a lessee thereof, respecting operations under existing mineral leases and payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee, respecting the issuance or nonissuance of new mineral leases pending the settlement or adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this subchapter. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be considered as compliance with section 1335(a)(4) of this title. Upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands subject to the provisions of this subchapter, the lessee, if he has not already done so, shall comply with the requirements of section 1335(a) of this title, and thereupon the provisions of section 1335(b) of this title shall govern such lease. The notice concerning "Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico" issued by the Secretary on December 11, 1950 (15 F.R. 8835), as amended by the notice dated January 26, 1951 (16 F.R. 953), and as supplemented by the notices dated February 2, 1951 (16 F.R. 1203), March 5, 1951 (16 F.R. 2195), April 23, 1951 (16 F.R. 3623), June 25, 1951 (16 F.R. 6404), August 22, 1951 (16 F.R. 8720), October 24, 1951 (16 F.R. 10998), December 21, 1951 (17 F.R. 43), March 25, 1952 (17 F.R. 2821), June 26, 1952 (17 F.R. 5833), and December 24, 1952 (18 F.R. 48), respectively, is approved and confirmed.

(Aug. 7, 1953, ch. 345, §7, 67 Stat. 467.)

### **Transfer of Functions**

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97-100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97-315, pp. 25, 26, Nov. 5, 1981.

### **§1337. Leases, easements, and rights-of-way on the outer Continental Shelf**

**(a) Oil and gas leases; award to highest responsible qualified bidder; method of bidding; royalty relief; Congressional consideration of bidding system; notice**

(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 1335 of this title. Such regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary announces his decision on whether to accept the bids, with the interest earned thereon to be paid to the Treasury as to bids that are accepted and to the unsuccessful bidders as to bids that are rejected. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

(A) cash bonus bid with a royalty at not less than 12 1/2 per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

(B) variable royalty bid based on a per centum in amount or value of the production saved, removed, or sold, with either a fixed work commitment based on dollar amount for exploration or a fixed cash bonus as determined by the Secretary, or both;

(C) cash bonus bid, or work commitment bid based on a dollar amount for exploration with a fixed cash bonus, and a diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12 1/2 per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

(D) cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

(E) fixed cash bonus with the net profit share reserved as the bid variable;

(F) cash bonus bid with a royalty at no less than 12 1/2 per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a fixed per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

(G) work commitment bid based on a dollar amount for exploration with a fixed cash bonus and a fixed royalty in amount or value of the production saved, removed, or sold;

(H) cash bonus bid with royalty at no less than 12 and 1/2 per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary, which suspensions may vary based on the price of production from the lease; or

(I) subject to the requirements of paragraph (4) of this subsection, any modification of bidding systems authorized in subparagraphs (A) through (G), or any other systems of bid variables, terms, and conditions which the Secretary determines to be useful to

accomplish the purposes and policies of this subchapter, except that no such bidding system or modification shall have more than one bid variable.

(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years after the date of the lease sale.

(3)(A) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

(B) In the Western and Central Planning Areas of the Gulf of Mexico and the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude and in the Planning Areas offshore Alaska, the Secretary may, in order to—

(i) promote development or increased production on producing or non-producing leases; or

(ii) encourage production of marginal resources on producing or non-producing leases;

through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

(C)(i) Notwithstanding the provisions of this subchapter other than this subparagraph, with respect to any lease or unit in existence on November 28, 1995, meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the



Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(I), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400–800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 702 of title 5, only for actions filed within 30 days of the Secretary's determination or redetermination.

(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

(iv) For purposes of this subparagraph, the term “new production” is—

(I) any production from a lease from which no royalties are due on production, other than test production, prior to November 28, 1995; or

(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after November 28, 1995.

(v) During the production of volumes determined pursuant to clauses <sup>1</sup> (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds \$28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds \$28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds \$3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses <sup>1</sup> (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds \$3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.

(4)(A) The Secretary of Energy shall submit any bidding system authorized in subparagraph (H) of paragraph (1) to the Senate and House of Representatives. The Secretary may institute such bidding system unless either the Senate or the House of Representatives passes a resolution of disapproval within thirty days after receipt of the bidding system.

(B) Subparagraphs (C) through (J) of this paragraph are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but they are applicable only with respect to the procedures to be

followed in that House in the case of resolutions described by this paragraph, and they supersede other rules only to the extent that they are inconsistent therewith; and

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(C) A resolution disapproving a bidding system submitted pursuant to this paragraph shall immediately be referred to a committee (and all resolutions with respect to the same request shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(D) If the committee to which has been referred any resolution disapproving the bidding system of the Secretary has not reported the resolution at the end of ten calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same bidding system which has been referred to the committee.

(E) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(F) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same bidding system.

(G) When the committee has reported, or has been discharged from further consideration of, a resolution as provided in this paragraph, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(H) Debate on the resolution is limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(I) Motions to postpone, made with respect to the discharge from the committee, or the consideration of a resolution with respect to a bidding system, and motions to proceed to the consideration of other business, shall be decided without debate.

(J) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a bidding system shall be decided without debate.

(5)(A) During the five-year period commencing on September 18, 1978, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this subchapter, require, as to no more than 10 per centum of the tracts offered each year, each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random for the acquisition of valid statistical data if such bidding alternative is otherwise consistent with the provisions of this subchapter.

(B) The bidding systems authorized by paragraph (1) of this subsection, other than the system authorized by subparagraph (A), shall be applied to not less than 20 per centum and not more than 60 per centum of the total area offered for leasing each year during the five-year period beginning on September 18, 1978, unless the Secretary determines that the requirements set forth in this subparagraph are inconsistent with the purposes and policies of this subchapter.

(6) At least ninety days prior to notice of any lease sale under subparagraph (D), (E), (F), or, if appropriate, (H) of paragraph (1), the Secretary shall by regulation establish rules to govern the calculation of net profits. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits under the regulation issued pursuant to this paragraph, the burden of proof shall be on the lessee.

(7) After an oil and gas lease is granted pursuant to any of the work commitment options of paragraph (1) of this subsection—

(A) the lessee, at its option, shall deliver to the Secretary upon issuance of the lease either (i) a cash deposit for the full amount of the exploration work commitment, or (ii) a performance bond in form and substance and with a surety satisfactory to the Secretary, in the principal amount of such exploration work commitment assuring the Secretary that such commitment shall be faithfully discharged in accordance with this section, regulations, and the lease; and for purposes of this subparagraph, the principal amount of such cash deposit or bond may, in accordance with regulations, be periodically reduced upon proof, satisfactory to the Secretary, that a portion of the exploration work commitment has been satisfied;

(B) 50 per centum of all exploration expenditures on, or directly related to, the lease, including, but not limited to (i) geological investigations and related activities, (ii) geophysical investigations including seismic, geomagnetic, and gravity surveys, data processing and interpretation, and (iii) exploratory drilling, core drilling, re-drilling, and well completion or abandonment, including the drilling of wells sufficient to determine the size and a real extent of any newly discovered field, and including the cost of mobilization and demobilization of drilling equipment, shall be included in satisfaction of the commitment, except that the lessee's general overhead cost shall not be so included against the work commitment, but its cost (including employee benefits) of employees directly assigned to such exploration work shall be so included; and

(C) if at the end of the primary term of the lease, including any extension thereof, the full dollar amount of the exploration work commitment has not been satisfied, the balance shall then be paid in cash to the Secretary.

(8) Not later than thirty days before any lease sale, the Secretary shall submit to the Congress and publish in the Federal Register a notice—

(A) identifying any bidding system which will be utilized for such lease sale and the reasons for the utilization of such bidding system; and

(B) designating the lease tracts selected which are to be offered in such sale under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (H) of paragraph (1), and the reasons such lease tracts are to be offered under a particular bidding system.

**(b) Terms and provisions of oil and gas leases**

An oil and gas lease issued pursuant to this section shall—

(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

(2) be for an initial period of—

(A) five years; or

(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas because of unusually deep water or other unusually adverse conditions, and as long after such initial period as oil or gas is produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

(4) entitle the lessee to explore, develop, and produce the oil and gas contained within the lease area, conditioned upon due diligence requirements and the approval of the development and production plan required by this subchapter;

(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 1334 of this title;

(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

(7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced on such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973 <sup>2</sup> [15 U.S.C. 751 et seq.].

**(c) Antitrust review of lease sales**

(1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of such lease sale, except that the Attorney General, after consultation with the Federal Trade Commission, may agree to a shorter review period.

(2) The Attorney General may, in consultation with the Federal Trade Commission, conduct such antitrust review on the likely effects the issuance of such leases would have on competition as the Attorney General, after consultation with the Federal Trade Commission, deems appropriate and shall advise the Secretary with respect to such review. The Secretary shall provide such information as the Attorney General, after consultation with the Federal Trade Commission, may require in order to conduct any antitrust review pursuant to this paragraph and to make recommendations pursuant to paragraph (3) of this subsection.

(3) The Attorney General, after consultation with the Federal Trade Commission, may make such recommendations to the Secretary, including the nonacceptance of any bid, as may be appropriate to prevent any situation inconsistent with the antitrust laws. If the Secretary determines, or if the Attorney General advises the Secretary, after consultation with the Federal Trade Commission and prior to the issuance of any lease, that such lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may—

(A) refuse (i) to accept an otherwise qualified bid for such lease, or (ii) to issue such lease, notwithstanding subsection (a) of this section; or

(B) issue such lease, and notify the lessee and the Attorney General of the reason for such decision.

(4)(A) Nothing in this subsection shall restrict the power under any other Act or the common law of the Attorney General, the Federal Trade Commission, or any other Federal department or agency to secure information, conduct reviews, make recommendations, or seek appropriate relief.

(B) Neither the issuance of a lease nor anything in this subsection shall modify or abridge any private right of action under the antitrust laws.

**(d) Due diligence**

No bid for a lease may be submitted if the Secretary finds, after notice and hearing, that the bidder is not meeting due diligence requirements on other leases.

**(e) Secretary's approval for sale, exchange, assignment, or other transfer of leases**

No lease issued under this subchapter may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General.

**(f) Antitrust immunity or defenses**

Nothing in this subchapter shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

**(g) Leasing of lands within three miles of seaward boundaries of coastal States; deposit of revenues; distribution of revenues**

(1) At the time of soliciting nominations for the leasing of lands containing tracts wholly or partially within three nautical miles of the seaward boundary of any coastal State, and subsequently as new information is obtained or developed by the Secretary, the Secretary shall, in addition to the information required by section 1352 of this title, provide the Governor of such State—

(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

(B) at the request of the Governor of such State, all information from all sources concerning the geographical, geological, and ecological characteristics of such tracts;

(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

(D) at the request of the Governor of such State, an identification of any field, geological structure, or trap located wholly or partially within three nautical miles of the seaward boundary of such coastal State, including all information relating to the entire field, geological structure, or trap.

The provisions of the first sentence of subsection (c) and the provisions of subsections (e)–(h) of section 1352 of this title shall be applicable to the release by the Secretary of any information to any coastal State under this paragraph. In addition, the provisions of subsections (c) and (e)–(h) of section 1352 of this title shall apply in their entirety to the release by the Secretary to any coastal State of any information relating to Federal lands beyond three nautical miles of the seaward boundary of such coastal State.

(2) Notwithstanding any other provision of this subchapter, the Secretary shall deposit into a separate account in the Treasury of the United States all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1) of this section), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly (or, in the case of Alaska, partially until seven years from the date of settlement of any boundary dispute that is the subject of an agreement under section 1336 of this title entered into prior to January 1, 1986 or until April 15, 1993 with respect to any other tract) within three nautical miles of the seaward boundary of any coastal State, or, (except as provided above for Alaska) in the case where a Federal tract lies partially within three nautical miles of the seaward boundary, a percentage of bonuses, rents, royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1) of this section), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of such tract equal to the percentage of surface acreage of the tract that lies within such three nautical miles. Except as provided in paragraph (5) of this subsection, not later than the last business day of the month following the month in which those revenues are deposited in the Treasury, the Secretary shall transmit to such coastal State 27 percent of those revenues, together with all accrued interest thereon. The remaining balance of such revenues shall be transmitted simultaneously to the miscellaneous receipts account of the Treasury of the United States.

(3) Whenever the Secretary or the Governor of a coastal State determines that a common potentially hydrocarbon-bearing area may underlie the Federal and State boundary, the Secretary or the Governor shall notify the other party in writing of his determination and the Secretary shall provide to the Governor notice of the current and projected status of the tract or tracts containing the common potentially hydrocarbon-bearing area. If the



Secretary has leased or intends to lease such tract or tracts, the Secretary and the Governor of the coastal State may enter into an agreement to divide the revenues from production of any common potentially hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. If the Secretary and the Governor do not enter into an agreement, the Secretary may nevertheless proceed with the leasing of the tract or tracts. Any revenues received by the United States under such an agreement shall be subject to the requirements of paragraph (2).

(4) The deposits in the Treasury account described in this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

(5)(A) When there is a boundary dispute between the United States and a State which is subject to an agreement under section 1336 of this title, the Secretary shall credit to the account established pursuant to such agreement all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1) of this section), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary asserted by the State, if that money has not otherwise been deposited in such account. Proceeds of an escrow account established pursuant to an agreement under section 1336 of this title shall be distributed as follows:

(i) Twenty-seven percent of all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1) of this section), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978, of any tract which lies wholly within three nautical miles of the seaward boundary asserted by the Federal Government in the boundary dispute, together with all accrued interest thereon, shall be paid to the State either—

(I) within thirty days of December 1, 1987, or

(II) by the last business day of the month following the month in which those revenues are deposited in the Treasury, whichever date is later.

(ii) Upon the settlement of a boundary dispute which is subject to a section 1336 of this title agreement between the United States and a State, the Secretary shall pay to such State any additional moneys due such State from amounts deposited in or credited to the escrow account. If there is insufficient money deposited in the escrow account, the Secretary shall transmit, from any revenues derived from any lease of Federal lands under this subchapter, the remaining balance due such State in accordance with the formula set forth in section 8004(b)(1)(B) of the Outer Continental Shelf Lands Act Amendments of 1985.

(B) This paragraph applies to all Federal oil and gas lease sales, under this subchapter, including joint lease sales, occurring after September 18, 1978.

(6) This section shall be deemed to take effect on October 1, 1985, for purposes of determining the amounts to be deposited in the separate account and the States' shares described in paragraph (2).

(7) When the Secretary leases any tract which lies wholly or partially within three miles of the seaward boundary of two or more States, the revenues from such tract shall be distributed as otherwise provided by this section, except that the State's share of such revenues that would otherwise result under this section shall be divided equally among such States.

**(h) State claims to jurisdiction over submerged lands**

Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.

**(i) Sulphur leases; award to highest bidder; method of bidding**

In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of section 1335(a) of this title, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

**(j) Terms and provisions of sulphur leases**

A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production or value of the sulphur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

**(k) Other mineral leases; award to highest bidder; terms and conditions; agreements for use of resources for shore protection, beach or coastal wetlands restoration, or other projects**

(1) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

(2)(A) Notwithstanding paragraph (1), the Secretary may negotiate with any person an agreement for the use of Outer Continental Shelf sand, gravel and shell resources—

(i) for use in a program of, or project for, shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency; or

(ii) for use in a construction project, other than a project described in clause (i), that is funded in whole or in part by or authorized by the Federal Government.

(B) In carrying out a negotiation under this paragraph, the Secretary may assess a fee based on an assessment of the value of the resources and the public interest served by promoting development of the resources. No fee shall be assessed directly or indirectly under this subparagraph against a Federal, State, or local government agency.

(C) The Secretary may, through this paragraph and in consultation with the Secretary of Commerce, seek to facilitate projects in the coastal zone, as such term is defined in section 1453 of title 16, that promote the policy set forth in section 1452 of title 16.

(D) Any Federal agency which proposes to make use of sand, gravel and shell resources subject to the provisions of this subchapter shall enter into a Memorandum of Agreement with the Secretary concerning the potential use of those resources. The Secretary shall notify the Committee on Merchant Marine and Fisheries and the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on any proposed project for the use of those resources prior to the use of those resources.

**(l) Publication of notices of sale and terms of bidding**

Notice of sale of leases, and the terms of bidding, authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

**(m) Disposition of revenues**

All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 1338 of this title.

**(n) Issuance of lease as nonprejudicial to ultimate settlement or adjudication of controversies**

The issuance of any lease by the Secretary pursuant to this subchapter, or the making of any interim arrangements by the Secretary pursuant to section 1336 of this title shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is in the outer Continental Shelf.

**(o) Cancellation of leases for fraud**

The Secretary may cancel any lease obtained by fraud or misrepresentation.

**(p) Leases, easements, or rights-of-way for energy and related purposes**

**(1) In general**

The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this subchapter, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law, if those activities—

(A) support exploration, development, production, or storage of oil or natural gas, except that a lease, easement, or right-of-way shall not be granted in an area in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium;

(B) support transportation of oil or natural gas, excluding shipping activities;

(C) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

(D) use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under this subchapter, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.

**(2) Payments and revenues**

(A) The Secretary shall establish royalties, fees, rentals, bonuses, or other payments to ensure a fair return to the United States for any lease, easement, or right-of-way granted under this subsection.

(B) The Secretary shall provide for the payment of 27 percent of the revenues received by the Federal Government as a result of payments under this section from projects that are located wholly or partially within the area extending three nautical miles seaward of State submerged lands. Payments shall be made based on a formula established by the Secretary by rulemaking no later than 180 days after August 8, 2005, that provides for equitable distribution, based on proximity to the project, among coastal states that have a coastline that is located within 15 miles of the geographic center of the project.

### **(3) Competitive or noncompetitive basis**

Except with respect to projects that meet the criteria established under section 388(d) of the Energy Policy Act of 2005, the Secretary shall issue a lease, easement, or right-of-way under paragraph (1) on a competitive basis unless the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest.

### **(4) Requirements**

The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for—

- (A) safety;
- (B) protection of the environment;
- (C) prevention of waste;
- (D) conservation of the natural resources of the outer Continental Shelf;
- (E) coordination with relevant Federal agencies;
- (F) protection of national security interests of the United States;
- (G) protection of correlative rights in the outer Continental Shelf;
- (H) a fair return to the United States for any lease, easement, or right-of-way under this subsection;
- (I) prevention of interference with reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas;

(J) consideration of—

(i) the location of, and any schedule relating to, a lease, easement, or right-of-way for an area of the outer Continental Shelf; and

(ii) any other use of the sea or seabed, including use for a fishery, a sealane, a potential site of a deepwater port, or navigation;

(K) public notice and comment on any proposal submitted for a lease, easement, or right-of-way under this subsection; and

(L) oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection.

**(5) Lease duration, suspension, and cancellation**

The Secretary shall provide for the duration, issuance, transfer, renewal, suspension, and cancellation of a lease, easement, or right-of-way under this subsection.

**(6) Security**

The Secretary shall require the holder of a lease, easement, or right-of-way granted under this subsection to—

(A) furnish a surety bond or other form of security, as prescribed by the Secretary;

(B) comply with such other requirements as the Secretary considers necessary to protect the interests of the public and the United States; and

(C) provide for the restoration of the lease, easement, or right-of-way.

**(7) Coordination and consultation with affected State and local governments**

The Secretary shall provide for coordination and consultation with the Governor of any State or the executive of any local government that may be affected by a lease, easement, or right-of-way under this subsection.

**(8) Regulations**

Not later than 270 days after August 8, 2005, the Secretary, in consultation with the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, heads of other relevant departments and agencies of the Federal Government, and the Governor of any affected State, shall issue any necessary regulations to carry out this subsection.

**(9) Effect of subsection**

Nothing in this subsection displaces, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

**(10) Applicability**

This subsection does not apply to any area on the outer Continental Shelf within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.

(Aug. 7, 1953, ch. 345, §8, 67 Stat. 468; Pub. L. 95–372, title II, §205(a), (b), Sept. 18, 1978, 92 Stat. 640, 644; Pub. L. 99–272, title VIII, §8003, Apr. 7, 1986, 100 Stat. 148; Pub. L. 100–202, §101(g) [title I, §100], Dec. 22, 1987, 101 Stat. 1329–213, 1329–225; Pub. L. 103–426, §1(a), Oct. 31, 1994, 108 Stat. 4371; Pub. L. 104–58, title III, §§302, 303, Nov. 28, 1995, 109 Stat. 563, 565; Pub. L. 105–362, title IX, §901(k), Nov. 10, 1998, 112 Stat. 3290; Pub. L. 106–53, title II, §215(b)(1), Aug. 17, 1999, 113 Stat. 292; Pub. L. 109–58, title III, §§346, 388(a), (c), Aug. 8, 2005, 119 Stat. 704, 744, 747.)

**References in Text**

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (b)(7), is Pub. L. 93–159, Nov. 27, 1973, 87 Stat. 628, as amended, which was classified generally to chapter 16A (§751 et seq.) of Title 15, Commerce and Trade, and was omitted from the Code pursuant to section 760g of Title 15, which provided for the expiration of the President's authority under that chapter on Sept. 30, 1981.

Section 8004(b)(1)(B) of the Outer Continental Shelf Lands Act Amendments of 1985, referred to in subsec. (g)(5)(A), is section 8004(b)(1)(B) of Pub. L. 99–272, which is set out as a note below.

The Deepwater Port Act of 1974, referred to in subsec. (p)(1), is Pub. L. 93–627, Jan. 3, 1975, 88 Stat. 2126, as amended, which is classified principally to chapter 29 (§1501 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 33 and Tables.

The Ocean Thermal Energy Conversion Act of 1980, referred to in subsec. (p)(1), is Pub. L. 96–320, Aug. 3, 1980, 94 Stat. 974, as amended, which is classified principally to chapter 99 (§9101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of Title 42 and Tables.

Section 388(d) of the Energy Policy Act of 2005, referred to in subsec. (p)(3), is section 388(d) of Pub. L. 109–58, which is set out as a note under this section.

## Codification

In subsec. (a)(3)(C)(ii), “section 702 of title 5” substituted for “section 10(a) of the Administrative Procedures Act (5 U.S.C. 702)” on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

August 8, 2005, referred to in subsec. (p)(2)(B), was in the original “the date of enactment of this section”, which was translated as meaning the date of enactment of Pub. L. 109–58, which enacted subsec. (p) of this section, to reflect the probable intent of Congress.

## Amendments

**2005**—Pub. L. 109–58, §388(c), substituted “Leases, easements, and rights-of-way on the outer Continental Shelf” for “Grant of leases by Secretary” in section catchline.

Subsec. (a)(3)(B). Pub. L. 109–58, §346, inserted “and in the Planning Areas offshore Alaska” after “West longitude” in introductory provisions.

Subsec. (p). Pub. L. 109–58, §388(a), added subsec. (p).

**1999**—Subsec. (k)(2)(B). Pub. L. 106–53 substituted “a Federal, State, or local government agency” for “an agency of the Federal Government”.

**1998**—Subsec. (a)(9). Pub. L. 105–362 struck out par. (9) which related to report to Congress by Secretary of Energy on bidding options for oil and gas leases on outer Continental Shelf land.

**1995**—Subsec. (a)(1)(H), (I). Pub. L. 104–58, §303, added subpar. (H) and redesignated former subpar. (H) as (I).

Subsec. (a)(3). Pub. L. 104–58, §302, designated existing provisions as subpar. (A) and added subpars. (B) and (C).

**1994**—Subsec. (k). Pub. L. 103–426 designated existing provisions as par. (1) and added par. (2).

**1987**—Subsec. (g)(5)(A). Pub. L. 100–202 substituted “an escrow account established pursuant to an agreement under section 1336 of this title” for “such account” in second sentence, added cl. (i), designated existing indented par. as cl. (ii), substituted “a boundary” for “any boundary”, “any additional moneys” for “all moneys”, and inserted “or credited to” before “the escrow account”.



**1986**—Subsec. (g)(1). Pub. L. 99–272 amended par. (1) generally. Prior to amendment, par. (1) read as follows: At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of such State—

(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of such coastal State.

Subsec. (g)(2). Pub. L. 99–272 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing. The Secretary, in consultation with the Governor of the coastal State, shall then, determine whether any such area may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.”

Subsec. (g)(3). Pub. L. 99–272 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this subchapter, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.”

Subsec. (g)(4). Pub. L. 99–272 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “Notwithstanding any other provision of this subchapter, the Secretary

shall deposit in a separate account in the Treasury of the United States all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.”

Subsec. (g)(5) to (7). Pub. L. 99–272 added pars. (5) to (7).

**1978**—Subsec. (a). Pub. L. 95–372, §205(a), designated existing provisions as par. (1)(A) and (B), and in par. (1)(A) as so redesignated, struck out provisions which restricted authority of Secretary to grant oil and gas leases to situations involving the urgent need for further exploration and development of oil and gas deposits of the submerged lands of the outer Continental Shelf and inserted provisions permitting the promulgation of regulations for the deposit of cash bids in interest-bearing accounts until the Secretary announces his decision on whether to accept the bids with the earned interest paid either to the Treasury or to unsuccessful bidders, in par. (1)(B) as so redesignated, substituted provisions relating to variable royalty bids based on a per centum in amount or value of the production saved, removed, or sold, with either a fixed work commitment based on dollar amount covering exploration or a fixed cash bonus as determined by the Secretary or both for provisions relating to straight royalty bids at not less than 121/2 per centum with a cash bonus fixed by the Secretary, and added pars. (1)(C) to (H) and pars. (2) to (9).

Subsec. (b). Pub. L. 95–372, §205(a), redesignated cls. (1) to (4) as pars. (1), (2), (3), and (6) respectively, added pars. (4), (5), and (7), and in par. (1) as so redesignated, inserted provisions authorizing the Secretary to lease tracts larger than 5760 acres if a larger area is necessary to comprise a reasonable economic production unit and in par. (2) as so redesignated, inserted provision to allow up to a 10 year initial period if the longer period is necessary to encourage exploration and development in areas because of unusually deep water or other unusually adverse conditions, and in par. (3) as so redesignated, substituted “payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section” for “payment of a royalty of not less than 121/2 per centum, in the amount or value of the production saved, removed, or sold from the lease”.

Subsecs. (c) to (h). Pub. L. 95–372, §205(b), added subsecs. (c) to (h). Former subsecs. (c) to (h) redesignated (i) to (n).

Subsec. (i). Pub. L. 95–372, §205(b), redesignated former subsec. (c) as (i). Former subsec. (i) redesignated (o).

Subsec. (j). Pub. L. 95–372, §205(b), redesignated former subsec. (d) as (j). Former subsec. (j), which provided that any person complaining of the cancellation of a lease by the Secretary could have the Secretary's action reviewed in the United States District Court for the District of Columbia by filing a petition for review, was struck out. See section 1349 of this title.

Subsecs. (k) to (o). Pub. L. 95–372, §205(b), redesignated former subsecs. (e) to (i) as (k) to (o), respectively.

### **Regulations**

Section 305 of title III of Pub. L. 104–58 provided that: “The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this title [amending this section and enacting provisions set out as notes under this section] within 180 days after the enactment of this Act [Nov. 28, 1995].”

### **Savings Provision**

Pub. L. 109–58, title III, §388(d), Aug. 8, 2005, 119 Stat. 747, provided that: Nothing in the amendment made by subsection (a) [amending this section] requires the resubmittal of any document that was previously submitted or the reauthorization of any action that was previously authorized with respect to a project for which, before the date of enactment of this Act [Aug. 8, 2005]—

- (1) an offshore test facility has been constructed; or
- (2) a request for a proposal has been issued by a public authority.

Section 306 of title III of Pub. L. 104–58 provided that: “Nothing in this title [amending this section and enacting provisions set out as notes under this section] shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.”

### **Abolition of House Committee on Merchant Marine and Fisheries**

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

### **Transfer of Functions**

Functions vested in, or delegated to, Secretary of Energy and Department of Energy under or with respect to subsec. (a)(4) of this section, transferred to, and vested in, Secretary of the Interior, by section 100 of Pub. L. 97–257, 96 Stat. 841, set out as a note under section 7152 of Title 42, The Public Health and Welfare.

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

### **Coordinated OCS Mapping Initiative**

Pub. L. 109–58, title III, §388(b), Aug. 8, 2005, 119 Stat. 746, provided that:

(1) In general.—The Secretary of the Interior, in cooperation with the Secretary of Commerce, the Commandant of the Coast Guard, and the Secretary of Defense, shall establish an interagency comprehensive digital mapping initiative for the outer Continental Shelf to assist in decisionmaking relating to the siting of activities under subsection (p) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) (as added by subsection (a)).

(2) Use of data.—The mapping initiative shall use, and develop procedures for accessing, data collected before the date on which the mapping initiative is established, to the maximum extent practicable.

(3) Inclusions.—Mapping carried out under the mapping initiative shall include an indication of the locations on the outer Continental Shelf of—

- (A) Federally-permitted activities;
- (B) obstructions to navigation;
- (C) submerged cultural resources;
- (D) undersea cables;
- (E) offshore aquaculture projects; and

(F) any area designated for the purpose of safety, national security, environmental protection, or conservation and management of living marine resources.

### **State Claims to Jurisdiction Over Submerged Lands**

Pub. L. 109–58, title III, §388(e), Aug. 8, 2005, 119 Stat. 747, provided that: “Nothing in this section [amending this section and enacting provisions set out as notes under this section] shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.”

### **Reimbursement of Local Interests**

Pub. L. 106–53, title II, §215(b)(2), Aug. 17, 1999, 113 Stat. 293, provided that: “Any amounts paid by non-Federal interests for beach erosion control, hurricane protection, shore protection, or storm damage reduction projects as a result of an assessment under section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)) shall be fully reimbursed.”

### **Fees for Royalty Rate Relief Applications**

Pub. L. 104–134, title I, §101(c) [title I], Apr. 26, 1996, 110 Stat. 1321–156, 1321–166; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided in part: “That beginning in fiscal year 1996 and thereafter, fees for royalty rate relief applications shall be established (and revised as needed) in Notices to Lessees, and shall be credited to this account in the program areas performing the function, and remain available until expended for the costs of administering the royalty rate relief authorized by 43 U.S.C. 1337(a)(3)”.

### **Lease Sales**

Section 304 of title III of Pub. L. 104–58 provided that: For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within five years of the date of enactment of this title [Nov. 28, 1995], shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this title [43 U.S.C. 1337(a)(1)(H)], except that the suspension of royalties shall be set at a volume of not less than the following:

- (1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;
- (2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

### **Distribution of Section 1337(g) Account**

Section 8004 of title VIII of Pub. L. 99-272 provided that:

(a) Prior to April 15, 1986, the Secretary shall distribute to the designated coastal States the sum of—

(1) the amounts due and payable to each such State under paragraph (2) of section 8(g) of the Outer Continental Shelf Lands Act, as amended by this title [43 U.S.C. 1337(g)(2)], for the period between October 1, 1985, and the date of such distribution, and

(2) the amounts due each such State under subsection (b)(1)(A) of this section for the period prior to October 1, 1985.

(b)(1) As a fair and equitable disposition of all revenues (including interest thereon) derived from any lease of Federal lands wholly or partially within 3 miles of the seaward boundary of a coastal State prior to October 1, 1985, the Secretary shall distribute:

(A) from the funds which were deposited in the separate account in the Treasury of the United States under section 8(g)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(4)) which was in effect prior to the date of enactment of section 8003 of this title [Apr. 7, 1986] the following sums:

	(\$ million)
Louisiana	572
Texas	382
California	338
Alabama	66
Alaska	51
Mississippi	14
Florida	0.03

as well as 27 percent of the royalties, derived from any lease of Federal lands, which have been deposited through September 30, 1985, in the separate account described in this paragraph and interest thereon accrued through September 30, 1985, and shall transmit any remaining amounts to the miscellaneous receipts account of the Treasury of the United States; and

(B) from revenues derived from any lease of Federal lands under the Outer Continental Shelf Lands Act, as amended [43 U.S.C. 1331 et seq.], prior to April 15 of each of the fifteen fiscal years following the fiscal year in which this title is enacted, 3 percent of the following sums in each of the five fiscal years following the date of enactment of this Act [Apr. 7, 1986], 7 percent of such sums in each of the next five fiscal years, and 10 percent of such sums in each of the following five fiscal years:

	(\$ million)
Louisiana	84
Texas	134
California	289
Alabama	7
Alaska	134
Mississippi	2

(2) The acceptance of any payment by a State under this section shall satisfy and release any and all claims of such State against the United States arising under, or related to, section 8(g) of the Outer Continental Shelf Lands Act [43 U.S.C. 1337(g)], as it was in effect prior to the date of enactment of this Act [Apr. 7, 1986] and shall vest in such State the right to receive payments as set forth in this section.

(c) Notwithstanding any other provision of this Act, the amounts due and payable to the State of Louisiana prior to October 1, 1986, under subtitle A of title VIII (Outer Continental Shelf and Related Programs) of this Act [title VIII does not contain a subtitle A, see Short Title of 1986 Amendment note set out under section 1301 of this title] shall remain in their separate accounts in the Treasury of the United States and continue to accrue interest until October 1, 1986, except that the \$572,000,000 set forth in subsection 8004(b)(1)(A) of this section shall only accrue interest from April 15, 1986 to October 1, 1986, at which time the Secretary shall immediately distribute such sums with accrued interest to the State of Louisiana.

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

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

### **§1338. Disposition of revenues**

All rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

(Aug. 7, 1953, ch. 345, §9, 67 Stat. 469.)

**§1338a. Moneys received as a result of forfeiture by Outer Continental Shelf permittee, lessee, or right-of-way holder; return of excess amounts**

Notwithstanding section 3302 of title 31, any moneys on and after November 5, 1990, received as a result of the forfeiture of a bond or other security by an Outer Continental Shelf permittee, lessee, or right-of-way holder which does not fulfill the requirements of its permit, lease, or right-of-way or does not comply with the regulations of the Secretary shall be credited to the royalty and offshore minerals management account of the Minerals Management Service to cover the cost to the United States of any improvement, protection, or rehabilitation work rendered necessary by the action or inaction that led to the forfeiture, to remain available until expended: Provided further, That any portion of the moneys so credited shall be returned to the permittee, lessee, or right-of-way holder to the extent that the money is in excess of the amount expended in performing the work necessitated by the action or inaction which led to their receipt or, if the bond or security was forfeited for failure to pay the civil penalty, in excess of the civil penalty imposed.

(Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1926; Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1386; Pub. L. 103–332, title I, Sept. 30, 1994, 108 Stat. 2508.)

**Codification**

Section enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1991, and not as part of the Outer Continental Shelf Lands Act which comprises this subchapter.

**Amendments**

**1994**—Pub. L. 103–332 struck out “or payment of civil penalty” after “result of the forfeiture of a bond or other security”, substituted “royalty and offshore minerals” for “leasing and royalty”, and struck out “or imposition of the civil penalty” after “rendered necessary by the action or inaction that led to the forfeiture”.

**1992**—Pub. L. 102–381 substituted “shall be credited to the leasing and royalty management account of the Minerals Management Service” for “shall be credited to this account”.

**Change of Name**

Title I of Pub. L. 103–332, 108 Stat. 2508, provided in part: “That where the account title ‘Leasing and Royalty Management’ appears in any public law, the words ‘Leasing and Royalty Management’ beginning in fiscal year 1995 and thereafter shall be construed to mean ‘Royalty and Offshore Minerals Management’.”



### **Effective Date of 1994 Amendment**

Title I of Pub. L. 103–332, 108 Stat. 2508, provided that the amendment made by Pub. L. 103–332 substituting “royalty and offshore minerals” for “leasing and royalty” is effective beginning in fiscal year 1995 and thereafter.

### **§1339. Repealed. Pub. L. 104–185, §8(b), Aug. 13, 1996, 110 Stat. 1717**

Section, act Aug. 7, 1953, ch. 345, §10, 67 Stat. 469, related to requirements for refund of excess payments.

### **Effective Date of Repeal**

Section 8(b) of Pub. L. 104–185 provided in part that the repeal of this section is effective Aug. 13, 1996.

### **Applicability of Repeal**

Repeal of section not applicable to any privately owned minerals or with respect to Indian lands, see sections 9 and 10 of Pub. L. 104–185, set out as an Applicability of 1996 Amendment note under section 1701 of Title 30, Mineral Lands and Mining.

### **§1340. Geological and geophysical explorations**

#### **(a) Approved exploration plans**

(1) Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this subchapter, and which are not unduly harmful to aquatic life in such area.

(2) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this subchapter.

#### **(b) Oil and gas exploration**

Except as provided in subsection (f) of this section, beginning ninety days after September 18, 1978, no exploration pursuant to any oil and gas lease issued or maintained under this subchapter may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

#### **(c) Plan approval; State concurrence; plan provisions**

(1) Except as otherwise provided in this subchapter, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this subchapter, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this subchapter, regulations prescribed under this subchapter, including regulations prescribed by the Secretary pursuant to paragraph (8) of section 1334(a) of this title, and the provisions of such lease. The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission, except that the Secretary shall disapprove such plan if he determines that (A) any proposed activity under such plan would result in any condition described in section 1334(a)(2)(A)(i) of this title, and (B) such proposed activity cannot be modified to avoid such condition. If the Secretary disapproves a plan under the preceding sentence, he may, subject to section 1334(a)(2)(B) of this title, cancel such lease and the lessee shall be entitled to compensation in accordance with the regulations prescribed under section 1334(a)(2)(C)(i) or (ii) of this title.

(2) The Secretary shall not grant any license or permit for any activity described in detail in an exploration plan and affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 1455 of title 16, unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to section 1456(c)(3)(B)(i) or (ii) of title 16, or the Secretary of Commerce makes the finding authorized by section 1456(c)(3)(B)(iii) of title 16.

(3) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

(A) a schedule of anticipated exploration activities to be undertaken; <sup>1</sup>

(B) a description of equipment to be used for such activities;

(C) the general location of each well to be drilled; and

(D) such other information deemed pertinent by the Secretary.

(4) The Secretary may, by regulation, require that such plan be accompanied by a general statement of development and production intentions which shall be for planning purposes only and which shall not be binding on any party.

**(d) Drilling permit**

The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

**(e) Plan revisions; conduct of exploration activities**

(1) If a significant revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

**(f) Drilling permits issued and exploration plans approved within 90-day period after September 18, 1978**

(1) Exploration activities pursuant to any lease for which a drilling permit has been issued or for which an exploration plan has been approved, prior to ninety days after September 18, 1978, shall be considered in compliance with this section, except that the Secretary may, in accordance with section 1334(a)(1)(B) of this title, order a suspension or temporary prohibition of any exploration activities and require a revised exploration plan.

(2) The Secretary may require the holder of a lease described in paragraph (1) of this subsection to supply a general statement in accordance with subsection (c)(4) of this section, or to submit other information.

(3) Nothing in this subsection shall be construed to amend the terms of any permit or plan to which this subsection applies.

**(g) Determinations requisite to issuance of permits**

Any permit for geological explorations authorized by this section shall be issued only if the Secretary determines, in accordance with regulations issued by the Secretary, that—

(1) the applicant for such permit is qualified;

(2) the exploration will not interfere with or endanger operations under any lease issued or maintained pursuant to this subchapter; and

(3) such exploration will not be unduly harmful to aquatic life in the area, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, or disturb any site, structure, or object of historical or archeological significance.

### **(h) Lands beneath navigable waters adjacent to Phillip Burton Wilderness**

The Secretary shall not issue a lease or permit for, or otherwise allow, exploration, development, or production activities within fifteen miles of the boundaries of the Phillip Burton Wilderness as depicted on a map entitled “Wilderness Plan, Point Reyes National Seashore”, numbered 612–90,000–B and dated September 1976, unless the State of California issues a lease or permit for, or otherwise allows, exploration, development, or production activities on lands beneath navigable waters (as such term is defined in section 1301 of this title) of such State which are adjacent to such Wilderness.

(Aug. 7, 1953, ch. 345, §11, 67 Stat. 469; Pub. L. 95–372, title II, §206, Sept. 18, 1978, 92 Stat. 647; Pub. L. 99–68, §1(c), July 19, 1985, 99 Stat. 166.)

#### **Amendments**

**1978**—Pub. L. 95–372 designated existing provisions as subsec. (a)(1) and added subsecs. (a)(2) to (h).

#### **Change of Name**

“Phillip Burton Wilderness” was substituted for “Point Reyes Wilderness” in subsec. (h), pursuant to section 1(c) of Pub. L. 99–68.

#### **Transfer of Functions**

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

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

### **§1341. Reservation of lands and rights**

#### **(a) Withdrawal of unleased lands by President**

The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

**(b) First refusal of mineral purchases**

In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of any mineral produced from the outer Continental Shelf.

**(c) National security clause**

All leases issued under this subchapter, and leases, the maintenance and operation of which are authorized under this subchapter, shall contain or be construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after August 7, 1953, to suspend operations under any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended.

**(d) National defense areas; suspension of operations; extension of leases**

The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from exploration and operation that part of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

**(e) Source materials essential to production of fissionable materials**

All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the subsoil or seabed of the outer Continental Shelf are reserved for the use of the United States.

**(f) Helium ownership; rules and regulations governing extraction**

The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary,

contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this subchapter, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas.

(Aug. 7, 1953, ch. 345, §12, 67 Stat. 469.)

### **References in Text**

Paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, referred to in subsec. (e), is par. (1) of section 5(b) of act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified to section 1805 of Title 42, The Public Health and Welfare, prior to the general amendment of the Atomic Energy Act of 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921. See section 2014(z) of Title 42.

### **Key Largo Coral Reef Preserve**

Withdrawal of area designated Key Largo Coral Reef Preserve from disposition, see Proc. No. 3339, Mar. 15, 1960, 25 F.R. 2352, set out as a note under section 461 of Title 16, Conservation.

### **§1342. Prior claims as unaffected**

Nothing herein contained shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this subchapter and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: Provided, however, That nothing herein contained is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact applies to the lands subject to this subchapter or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything herein contained.

(Aug. 7, 1953, ch. 345, §14, 67 Stat. 470.)

### **§1343. Repealed. Pub. L. 105–362, title IX, §901(l)(1), Nov. 10, 1998, 112 Stat. 3290**

Section, acts Aug. 7, 1953, ch. 345, §15, 67 Stat. 470; Pub. L. 95–372, title II, §207, Sept. 18, 1978, 92 Stat. 648; Pub. L. 99–367, §2(a), July 31, 1986, 100 Stat. 774, related to Secretary's annual report to Congress concerning outer Continental Shelf leasing and production program and promotion of competition in leasing.

### **§1344. Outer Continental Shelf leasing program**

**(a) Schedule of proposed oil and gas lease sales**

The Secretary, pursuant to procedures set forth in subsections (c) and (d) of this section, shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this subchapter. The leasing program shall consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

(G) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

(H) relevant environmental and predictive information for different areas of the outer Continental Shelf.

(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

(4) Leasing activities shall be conducted to assure receipt of fair market value for the lands leased and the rights conveyed by the Federal Government.

**(b) Estimates of appropriations and staff required for management of leasing program**

The leasing program shall include estimates of the appropriations and staff required to—

(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this subchapter;

(3) conduct environmental studies and prepare any environmental impact statement required in accordance with this subchapter and with section 4332(2)(C) of title 42; and

(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

**(c) Suggestions from Federal agencies and affected State and local governments; submission of proposed program to Governors of affected States and Congress; publication in Federal Register**

(1) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider any suggestions from the executive of any affected local government in such an affected State, which have been previously submitted to the Governor of such State, and from any other person.



(2) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (3) of this subsection, the Secretary shall submit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor may solicit comments from those executives of local governments in his State which he, in his discretion, determines will be affected by the proposed program. If any comment by such Governor is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

(3) Within nine months after September 18, 1978, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, and the Governors of affected States, and shall publish such proposed program in the Federal Register. Each Governor shall, upon request, submit a copy of the proposed leasing program to the executive of any local government affected by the proposed program.

**(d) Comments by Attorney General on anticipated effect on competition; comments by State or local governments; submission of program to President and Congress; issuance of leases in accordance with program**

(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General may, after consultation with the Federal Trade Commission, submit comments on the anticipated effects of such proposed program upon competition. Any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or local government was not accepted.

(3) After the leasing program has been approved by the Secretary, or after eighteen months following September 18, 1978, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this subchapter.

**(e) Review, revision, and reapproval of program**

The Secretary shall review the leasing program approved under this section at least once each year. He may revise and reapprove such program, at any time, and such revision and reapproval, except in the case of a revision which is not significant, shall be in the same manner as originally developed.

**(f) Procedural regulations for management of program**

The Secretary shall, by regulation, establish procedures for—

- (1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;
- (2) public notice of and participation in development of the leasing program;
- (3) review by State and local governments which may be impacted by the proposed leasing;
- (4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and
- (5) consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 1454 or section 1455 of title 16.

Such procedures shall be applicable to any significant revision or reapproval of the leasing program.

**(g) Information from public and private sources; confidentiality of classified or privileged data**

The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this subchapter. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged or proprietary data or information for such period of time as is provided for in this subchapter, established by regulation, or agreed to by the parties.

**(h) Information from all Federal departments and agencies; confidentiality of privileged or proprietary information**

The heads of all Federal departments and agencies shall provide the Secretary with any nonprivileged<sup>1</sup> or nonproprietary information he requests to assist him in preparing the leasing program and may provide the Secretary with any privileged or proprietary information he requests to assist him in preparing the leasing program. Privileged or proprietary information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

(Aug. 7, 1953, ch. 345, §18, as added Pub. L. 95–372, title II, §208, Sept. 18, 1978, 92 Stat. 649.)

**Transfer of Functions**

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

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

**§1345. Coordination and consultation with affected State and local governments**

**(a) Recommendations regarding size, time, or location of proposed lease sales**

Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan. Prior to submitting recommendations to the Secretary, the executive of any affected local government in any affected State must forward his recommendations to the Governor of such State.

**(b) Time for submission of recommendations**

Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or after receipt of such development and production plan.

**(c) Acceptance or rejection of recommendations**

The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this subchapter. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

**(d) Finality of acceptance or rejection of recommendations**

The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 1349 of this title, unless found to be arbitrary or capricious.

**(e) Cooperative agreements**

The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this subchapter and other applicable Federal law. Such agreements may include, but need not be limited to, the sharing of information (in accordance with the provisions of section 1352 of this title), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

(Aug. 7, 1953, ch. 345, §19, as added Pub. L. 95-372, title II, §208, Sept. 18, 1978, 92 Stat. 652.)

**§1346. Environmental studies**

**(a) Information for assessment and management of impacts on environment; time for study; impacts on marine biota from pollution or large spills**

(1) The Secretary shall conduct a study of any area or region included in any oil and gas lease sale or other lease in order to establish information needed for assessment and management of environmental impacts on the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas or other mineral development in such area or region.

(2) Each study required by paragraph (1) of this subsection shall be commenced not later than six months after September 18, 1978, with respect to any area or region where a lease sale has been held or announced by publication of a notice of proposed lease sale before September 18, 1978, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before September 18, 1978. In the case of an agreement under section 1337(k)(2) of this title, each study required by paragraph (1) of this subsection shall be commenced not later than 6 months prior to commencing negotiations for such agreement or the entering into the memorandum of agreement as the case may be. The Secretary may utilize information collected in any study prior to September 18, 1978.

(3) In addition to developing environmental information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

**(b) Additional studies subsequent to leasing and development of area**

Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish environmental information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

**(c) Procedural regulations for conduct of studies; cooperation with affected States; utilization of information from Federal, State and local governments and agencies**

The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information

obtained from any State or local government, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

**(d) Consideration of relevant environmental information in developing regulations, lease conditions and operating orders**

The Secretary shall consider available relevant environmental information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

**(e) Assessment of cumulative effects of activities on environment; submission to Congress**

As soon as practicable after the end of every 3 fiscal years, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this subchapter on the human, marine, and coastal environments.

**(f) Utilization of capabilities of Department of Commerce**

In executing his responsibilities under this section, the Secretary shall, to the maximum extent practicable, enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this subchapter.

(Aug. 7, 1953, ch. 345, §20, as added Pub. L. 95–372, title II, §208, Sept. 18, 1978, 92 Stat. 653; amended Pub. L. 103–426, §1(b), Oct. 31, 1994, 108 Stat. 4371; Pub. L. 104–66, title I, §1082(b), Dec. 21, 1995, 109 Stat. 722.)

**Amendments**

**1995**—Subsec. (e). Pub. L. 104–66 substituted “every 3 fiscal years” for “each fiscal year”.

**1994**—Subsec. (a)(1). Pub. L. 103–426, §1(b)(1), inserted “or other lease” after “any oil and gas lease sale” and “or other mineral” after “affected by oil and gas”.

Subsec. (a)(2). Pub. L. 103–426, §1(b)(2), inserted before last sentence “In the case of an agreement under section 1337(k)(2) of this title, each study required by paragraph (1) of

this subsection shall be commenced not later than 6 months prior to commencing negotiations for such agreement or the entering into the memorandum of agreement as the case may be.”

### **Termination of Reporting Requirements**

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 15th item on page 111 identifies a reporting provision which, as subsequently amended, is contained in subsec. (e) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

### **§1347. Safety and health regulations**

#### **(a) Joint study of adequacy of existing safety and health regulations; submission to President and Congress**

Upon September 18, 1978, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety and health regulations and of the technology, equipment, and techniques available for the exploration, development, and production of the minerals of the outer Continental Shelf. The results of such study shall be submitted to the President who shall submit a plan to the Congress of his proposals to promote safety and health in the exploration, development, and production of the minerals of the outer Continental Shelf.

#### **(b) Use of best available and safest economically feasible technologies**

In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 1333(a)(1) of this title, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies.

#### **(c) Regulations applying to unregulated hazardous working conditions**

The Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to unregulated hazardous working conditions related to

activities on the outer Continental Shelf when he determines such regulations or standards are necessary. The Secretary of the Department in which the Coast Guard is operating may from time to time modify any regulations, interim or final, dealing with hazardous working conditions on the outer Continental Shelf.

**(d) Application of other laws**

Nothing in this subchapter shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety.

**(e) Studies of underwater diving techniques and equipment**

The Secretary of Commerce, in cooperation with the Secretary of the Department in which the Coast Guard is operating, and the Director of the National Institute of Occupational Safety and Health, shall conduct studies of underwater diving techniques and equipment suitable for protection of human safety and improvement of diver performance. Such studies shall include, but need not be limited to, decompression and excursion table development and improvement and all aspects of diver physiological restraints and protective gear for exposure to hostile environments.

**(f) Coordination and consultation with Federal departments and agencies; availability to interested persons of compilation of safety regulations**

(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

(Aug. 7, 1953, ch. 345, §21, as added Pub. L. 95-372, title II, §208, Sept. 18, 1978, 92 Stat. 654.)

**Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections



468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### **§1348. Enforcement of safety and environmental regulations**

#### **(a) Utilization of Federal departments and agencies**

The Secretary, the Secretary of the Department in which the Coast Guard is operating, and the Secretary of the Army shall enforce safety and environmental regulations promulgated pursuant to this subchapter. Each such Federal department may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of other Federal departments and agencies for the enforcement of their respective regulations.

#### **(b) Duties of holders of lease or permit**

It shall be the duty of any holder of a lease or permit under this subchapter to—

- (1) maintain all places of employment within the lease area or within the area covered by such permit in compliance with occupational safety and health standards and, in addition, free from recognized hazards to employees of the lease holder or permit holder or of any contractor or subcontractor operating within such lease area or within the area covered by such permit on the outer Continental Shelf;
- (2) maintain all operations within such lease area or within the area covered by such permit in compliance with regulations intended to protect persons, property, and the environment on the outer Continental Shelf; and
- (3) allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

#### **(c) Onsite inspection of facilities**

The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

- (1) scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this subchapter, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

**(d) Investigation and report on major fires, oil spills, death, or serious injury**

(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage occurring as a result of operations conducted pursuant to this subchapter, and may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil during a period of thirty days. All holders of leases or permits issued or maintained under this subchapter shall cooperate with the appropriate Secretary in the course of any such investigation.

(2) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on any death or serious injury occurring as a result of operations conducted pursuant to this subchapter, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection, a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this subchapter shall cooperate with the appropriate Secretary in the course of any such investigation.

**(e) Review of allegations of violations**

The Secretary, or, in the case of occupational safety and health, the Secretary of the Department in which the Coast Guard is operating, may review any allegation from any person of the existence of a violation of a safety regulation issued under this subchapter.

**(f) Summoning of witnesses and production of evidence**

In any investigation conducted pursuant to this section, the Secretary or the Secretary of the Department in which the Coast Guard is operating shall have power to summon witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process, as in the district courts of the United States. Such Secretary, or his designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

(Aug. 7, 1953, ch. 345, §22, as added Pub. L. 95-372, title II, §208, Sept. 18, 1978, 92 Stat. 655; amended Pub. L. 105-362, title IX, §901(1)(2), Nov. 10, 1998, 112 Stat. 3290.)

**Amendments**

**1998**—Subsec. (g). Pub. L. 105–362 struck out subsec. (g) which read as follows: “The Secretary shall, after consultation with the Secretary of the Department in which the Coast Guard is operating, include in his annual report to the Congress required by section 1343 of this title the number of violations of safety regulations reported or alleged, any investigations undertaken, the results of such investigations, and any administrative or judicial action taken as a result of such investigations, and the results of the diving studies conducted under section 1347(e) of this title.”

### **Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### **Report and Recommendations by Secretary to Congress for Training Program**

Pub. L. 95–372, title VI, §607, Sept. 18, 1978, 92 Stat. 697, required the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, not later than ninety days after Sept. 18, 1978, to prepare and submit to the Congress a training program report concerning individuals employed on any artificial island, installation, or other device located on the Outer Continental Shelf and who, as part of their employment, operate or supervise the operation of pollution-prevention equipment.

### **§1349. Citizens suits, jurisdiction and judicial review**

#### **(a) Persons who may bring actions; persons against whom action may be brought; time of action; intervention by Attorney General; costs and fees; security**

(1) Except as provided in this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this subchapter against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this subchapter or any regulation promulgated under this subchapter, or of the terms of any permit or lease issued by the Secretary under this subchapter.

(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary and any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; or

(B) if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right.

(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

(4) In any action commenced pursuant to this section, the Attorney General, upon the request of the Secretary or any other appropriate Federal official, may intervene as a matter of right.

(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

(6) Except as provided in subsection (c) of this section, all suits challenging actions or decisions allegedly in violation of, or seeking enforcement of, the provisions of this subchapter, or any regulation promulgated under this subchapter, or the terms of any permit or lease issued by the Secretary under this subchapter, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

**(b) Jurisdiction and venue of actions**

(1) Except as provided in subsection (c) of this section, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with (A) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the minerals, of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such minerals, or (B) the cancellation, suspension, or termination of a lease or permit under this subchapter. Proceedings with respect to any such case or controversy may be instituted in the

judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

(2) Any resident of the United States who is injured in any manner through the failure of any operator to comply with any rule, regulation, order, or permit issued pursuant to this subchapter may bring an action for damages (including reasonable attorney and expert witness fees) only in the judicial district having jurisdiction under paragraph (1) of this subsection.

**(c) Review of Secretary's approval of leasing program; review of approval, modification or disapproval of exploration or production plan; persons who may seek review; scope of review; certiorari to Supreme Court**

(1) Any action of the Secretary to approve a leasing program pursuant to section 1344 of this title shall be subject to judicial review only in the United States Court of Appeal<sup>1</sup> for the District of Columbia.

(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this subchapter shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General.

(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a) of this section.

(5) The Secretary shall file in the appropriate court the record of any public hearings required by this subchapter and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or

decision or may remand the proceedings to the Secretary for such further action as it may direct.

(7) Upon the filing of the record with the court, pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

(Aug. 7, 1953, ch. 345, §23, as added Pub. L. 95-372, title II, §208, Sept. 18, 1978, 92 Stat. 657; amended Pub. L. 98-620, title IV, §402(44), Nov. 8, 1984, 98 Stat. 3360.)

### **References in Text**

The Federal Rules of Civil Procedure, referred to in subsec. (a)(5), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

### **Amendments**

**1984**—Subsec. (d). Pub. L. 98-620 struck out subsec. (d) which provided that except as to causes of action considered by the court to be of greater importance, any action under this section would take precedence on the docket over all other causes of action and would be set for hearing at the earliest practical date and expedited in every way.

### **Effective Date of 1984 Amendment**

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

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

## **§1350. Remedies and penalties**

### **(a) Injunctions, restraining orders, etc.**

At the request of the Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this subchapter, any regulation or order issued under this subchapter, or any term of a lease, license, or permit issued pursuant to this subchapter.

### **(b) Civil penalties; hearing**

(1) Except as provided in paragraph (2), if any person fails to comply with any provision of this subchapter, or any term of a lease, license, or permit issued pursuant to this subchapter, or any regulation or order issued under this subchapter, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than \$20,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing. The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor.

(2) If a failure described in paragraph (1) constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty may be assessed without regard to the requirement of expiration of a period allowed for corrective action.

**(c) Criminal penalties**

Any person who knowingly and willfully (1) violates any provision of this subchapter, any term of a lease, license, or permit issued pursuant to this subchapter, or any regulation or order issued under the authority of this subchapter designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this subchapter, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this subchapter, or (4) reveals any data or information required to be kept confidential by this subchapter shall, upon conviction, be punished by a fine of not more than \$100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

**(d) Liability of corporate officers and agents for violations by corporation**

Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

**(e) Concurrent and cumulative nature of penalties**

The remedies and penalties prescribed in this subchapter shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this subchapter shall be in addition to any other remedies and penalties afforded by any other law or regulation.

(Aug. 7, 1953, ch. 345, §24, as added Pub. L. 95–372, title II, §208, Sept. 18, 1978, 92 Stat. 659; amended Pub. L. 101–380, title VIII, §8201, Aug. 18, 1990, 104 Stat. 570.)

### **Amendments**

**1990**—Subsec. (b). Pub. L. 101–380 substituted “(1) Except as provided in paragraph (2), if any” for “If any”, substituted “\$20,000” for “\$10,000”, inserted at end “The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor”, and added par. (2).

### **Effective Date of 1990 Amendment**

Amendment by Pub. L. 101–380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101–380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

### **Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## **§1351. Oil and gas development and production**

### **(a) Development and production plans; submission to Secretary; statement of facilities and operation; submission to Governors of affected States and local governments**

(1) Prior to development and production pursuant to an oil and gas lease issued after September 18, 1978, in any area of the outer Continental Shelf, other than the Gulf of Mexico, or issued or maintained prior to September 18, 1978, in any area of the outer Continental Shelf, other than the Gulf of Mexico, with respect to which no oil or gas has been discovered in paying quantities prior to September 18, 1978, the lessee shall submit a development and production plan (hereinafter in this section referred to as a “plan”) to the Secretary, for approval pursuant to this section.



(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development and production of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

(3) Except for any privileged or proprietary information (as such term is defined in regulations issued by the Secretary), the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State, and, upon request to the executive of any affected local government, and (B) make such plan and statement available to any appropriate interstate regional entity and the public.

**(b) Development and production activities in accordance with plan as lease requirement**

After September 18, 1978, no oil and gas lease may be issued pursuant to this subchapter in any region of the outer Continental Shelf, other than the Gulf of Mexico, unless such lease requires that development and production activities be carried out in accordance with a plan which complies with the requirements of this section.

**(c) Scope and contents of plan**

A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

(1) the specific work to be performed;

(2) a description of all facilities and operations located on the outer Continental Shelf which are proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

(4) all safety standards to be met and how such standards are to be met;

(5) an expected rate of development and production and a time schedule for performance; and

(6) such other relevant information as the Secretary may by regulation require.

**(d) State concurrence in land or water zone use in coastal zone of State**

The Secretary shall not grant any license or permit for any activity described in detail in a plan and affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act [16 U.S.C. 1456(c)(3)(B)(i) or (ii)], or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act [16 U.S.C. 1456(c)(3)(B)(iii)].

**(e) Declaration of approval of development and production plan as major Federal action; submission of preliminary or final lease plans prior to commencement of National Environmental Policy provisions procedures**

(1) At least once the Secretary shall declare the approval of a development and production plan in any area or region (as defined by the Secretary) of the outer Continental Shelf, other than the Gulf of Mexico, to be a major Federal action.

(2) The Secretary may require lessees of tracts for which development and production plans have not been approved, to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] shall commence.

**(f) Plans considered major Federal actions; submission of draft environmental impact statement to Governors of affected States and local governments**

If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, and upon request, to the executive of any local government, and shall make such draft available to any appropriate interstate regional entity and the public.

**(g) Plans considered nonmajor Federal actions; comments and recommendations from States**

If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State and the executive of any affected local government shall have sixty days from the date of receipt of the plan from the Secretary to submit comments and recommendations. Prior to submitting recommendations to the Secretary, the executive of any affected local government must forward his recommendations to the Governor of his State. Such comments and recommendations

shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

**(h) Approval, disapproval or modification of plan; reapplication; periodic review**

(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] or the comments and recommendations submitted under subsection (g) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (e) of this section, or sixty days after the period provided for comment under subsection (g) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraph (8) of section 1334(a) of this title. Any modification required by the Secretary which involves activities for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) must receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act [16 U.S.C. 1456(c)(3)(B)(i) or (ii)] unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act [16 U.S.C. 1456(c)(3)(B)(iii)]. The Secretary shall disapprove a plan—

(A) if the lessee fails to demonstrate that he can comply with the requirements of this subchapter or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (8) of section 1334(a) of this title;

(B) if any of the activities described in detail in the plan for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) do not receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act [16 U.S.C. 1456(c)(3)(B)(i) or (ii)] and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act [16 U.S.C. 1456(c)(3)(B)(iii)];

(C) if operations threaten national security or national defense; or

(D) if the Secretary determines, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause

serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

(2)(A) If a plan is disapproved—

(i) under subparagraph (A) of paragraph (1); or

(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

(B) If a plan is disapproved—

(i) under subparagraph (C) or (D) of paragraph (1); or

(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.], and such approval occurs after the lessee has submitted a plan to the Secretary, the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of such plan in accordance with this subsection.

(C) Upon expiration of the five-year period described in subparagraph (B) of this paragraph, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease and the lessee shall be entitled to receive compensation in accordance with section 1334(a)(2)(C) of this title. The Secretary may, at any time within the five-year period described in subparagraph (B) of this paragraph, require the lessee to submit a development and production plan for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately initiate procedures to cancel such lease, without compensation, under the provisions of section 1334(c) of this title.

(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to

such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

**(i) Approval of revision of approved plan**

The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this subchapter, to the extent such revision is consistent with protection of the human, marine, and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (f) of this section.

**(j) Cancellation of lease on failure to submit plan or comply with approved plan**

Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may be canceled in accordance with section 1334(c) and (d) of this title. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

**(k) Production and transportation of natural gas; submission of plan to Federal Energy Regulatory Commission; impact statement**

If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Energy Regulatory Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Energy Regulatory Commission shall agree as to which of them shall prepare an environmental impact statement pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting such studies pursuant to such agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Energy Regulatory Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 717f of title 15, may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Energy Regulatory Commission, shall promulgate rules to

implement this subsection, but the Federal Energy Regulatory Commission shall retain sole authority with respect to rules and procedures applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

**(I) Application of provisions to leases in Gulf of Mexico**

The Secretary may require the provisions of this section to apply to an oil and gas lease issued or maintained under this subchapter, which is located in that area of the Gulf of Mexico which is adjacent to the State of Florida, as determined pursuant to section 1333(a)(2) of this title.

(Aug. 7, 1953, ch. 345, §25, as added Pub. L. 95-372, title II, §208, Sept. 18, 1978, 92 Stat. 659.)

**References in Text**

The National Environmental Policy Act of 1969, referred to in subsecs. (e)(2), (h)(1), and (k), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Coastal Zone Management Act of 1972, referred to in subsec. (h)(2)(A)(ii), (B)(ii), is title III of Pub. L. 89-454, as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (§1451 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of Title 16 and Tables.

**§1352. Oil and gas information program**

**(a) Access to data and information obtained by lessee or permittee from oil or gas exploration, etc., data obtained by Federal department or agency from geological and geophysical explorations**

(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this subchapter shall provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

(C) Whenever any data and information is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data and information;

(ii) by a lessee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information;

(iii) by a permittee, in the form and manner of processing which is utilized by such permittee in the normal conduct of his business, the Secretary shall pay such permittee the reasonable cost of reproducing such data and information for the Secretary and shall pay at the lowest rate available to any purchaser for processing such data and information the costs attributable to such processing; and

(iv) by a permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay such permittee the reasonable cost of processing and reproducing such data and information for the Secretary, pursuant to such regulations as he may prescribe.

(2) Each Federal department and agency shall provide the Secretary with any data obtained by such Federal department or agency pursuant to section 1340 of this title, and any other information which may be necessary or useful to assist him in carrying out the provisions of this subchapter.

**(b) Processing, analyzing, and interpreting information; availability of summary of data to affected States and local government**

(1) Data and information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this subchapter.

(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States, and upon request, to any affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the

size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

**(c) Confidentiality of information; regulations**

The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

**(d) Transmittal of information to affected State; protection of competitive position**

(1) The Secretary shall transmit to any affected State—

(A) an index, and upon request copies of, all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this subchapter, but no information transmitted by the Secretary under this subsection shall identify any particular tract with the name or names of any particular party so as not to compromise the competitive position of any party or parties participating in the nominations;

(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this section, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b)(1) of this section would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge



obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

**(e) Agreement with State to waive defenses and hold United States harmless from failure to maintain confidentiality of information**

Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f)(2) of this section, and to hold the United States harmless from any violations of the regulations prescribed pursuant to subsection (c) of this section that the State or its employees may commit.

**(f) Civil action against United States or State for failure to maintain confidentiality of information; certain defenses unavailable**

(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of his employment in revealing such information.

**(g) Preemption of State law by Federal law**

Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this subchapter is expressly preempted by the provisions of this section, to the extent that it applies to such information.

**(h) Failure by State to comply with regulations; withholding of information**

If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and

deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

(Aug. 7, 1953, ch. 345, §26, as added Pub. L. 95–372, title II, §208, Sept. 18, 1978, 92 Stat. 664.)

### **Payment of Processing Costs for Data and Information Acquired; Permittees Eligible**

Pub. L. 99–349, title I, July 2, 1986, 100 Stat. 732, provided that: “Notwithstanding any other provision of law, for data and information acquired in fiscal year 1986 or thereafter, by the Secretary, pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, payment shall be made for processing costs to permittees with permits issued on or before September 30, 1985.”

### **Payment of Costs of Reproducing Data and Information Provided to Secretary**

Pub. L. 99–190, §101(d) [title I, §100], Dec. 19, 1985, 99 Stat. 1224, 1232, provided: “That notwithstanding any other provision of law, when in fiscal year 1986 and thereafter any permittee provides data and information to the Secretary pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, the Secretary shall pay only the reasonable cost of reproducing such data and information.”

## **§1353. Federal purchase and disposition of oil and gas**

### **(a) Payment of royalties or net profit shares in oil and gas; purchase of oil and gas by United States; transfer of title to Federal agencies**

(1) Except as may be necessary to comply with the provisions of sections 1335 and 1336 of this title, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease issued or maintained in accordance with this subchapter, shall, on demand of the Secretary, be paid in oil or gas.

(2) The United States shall have the right to purchase not to exceed  $\frac{16}{23}$  per centum by volume of the oil and gas produced pursuant to a lease issued or maintained in accordance with this subchapter, at the regulated price, or, if no regulated price applies, at the fair market value at the well head of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Secretary of Energy, for disposal within the Federal Government.

**(b) Sale of oil by United States to public; disposition of oil to small refiners; application of other laws**

(1) The Secretary, except as provided in this subsection, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value, any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

(2) Whenever, after consultation with the Secretary of Energy, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this subchapter, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any allocation or lottery sale to assure such access and shall publish notice of such allocation or sale, and the terms thereof, at least thirty days in advance. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

(3) The Secretary may only sell or otherwise dispose of oil described in paragraph (1) of this subsection in accordance with any provision of law, or regulations issued in accordance with such provisions, which provide for the Secretary of Energy to allocate, transfer, exchange, or sell oil in amounts or at prices determined by such provision of law or regulations.

**(c) Sale of gas by United States to public**

(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may<sup>1</sup> offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

(2) Whenever, after consultation with and advice from the Secretary of Energy, the Federal Energy Regulatory Commission determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this section, the Secretary of the Interior may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocation or lottery sale of

such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to selling or allocating any gas pursuant to this subsection, the Secretary shall consult with the Federal Energy Regulatory Commission.

**(d) Purchase by lessee of Federal oil or gas for which no bids received**

The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

**(e) Definitions**

As used in this section—

(1) the term “regulated price” means the highest price—

(A) at which oil may<sup>1</sup> be sold pursuant to the Emergency Petroleum Allocation Act of 1973<sup>2</sup> [15 U.S.C. 751 et seq.] and any rule or order issued under such Act;

(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act [15 U.S.C. 717 et seq.], any other Act, regulations governing natural gas pricing, or any rule or order issued under any such Act or any such regulations; or

(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas; and

(2) the term “small refiner” has the meaning given such term by Small Business Administration Standards 128.3–8(d) and (g), as in effect on September 18, 1978, or as there-after revised or amended.

**(f) Purchase of oil and gas in time of war**

Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf as provided by section 1341(b) of this title.

(Aug. 7, 1953, ch. 345, §27, as added Pub. L. 95–372, title II, §208, Sept. 18, 1978, 92 Stat. 666.)

**References in Text**

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (e)(1)(A), is Pub. L. 93–159, Nov. 27, 1973, 87 Stat. 628, as amended, which was classified generally to chapter 16A (§751 et seq.) of Title 15, Commerce and Trade, and was omitted from the Code pursuant to section 760g of Title 15, which provided for the expiration of the President's authority under that chapter on Sept. 30, 1981.

The Natural Gas Act, referred to in subsec. (e)(1)(B), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§717 et seq.) of Title 15. For complete classification of that Act to the Code, see section 717w of Title 15 and Tables.

### **Transfer of Functions**

Functions vested in Secretary of Energy and Department of Energy under or with respect to subsec. (b)(2), (3) of this section, transferred to, and vested in, Secretary of the Interior, by section 100 of Pub. L. 97–257, 96 Stat. 841, set out as a note under section 7152 of Title 42, The Public Health and Welfare.

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

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

### **§1354. Limitations on export of oil or gas**

#### **(a) Application of Export Administration provisions**

Except as provided in subsection (d) of this section, any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969.

#### **(b) Condition precedent to exportation; express finding by President of no increase in reliance on imported oil or gas**

Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

#### **(c) Report of findings by President to Congress; joint resolution of disagreement with findings of President**

The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty

calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

**(d) Exchange or temporary exportation of oil and gas for convenience or efficiency of transportation**

The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, or which is exchanged or exported pursuant to an existing international agreement.

(Aug. 7, 1953, ch. 345, §28, as added Pub. L. 95–372, title II, §208, Sept. 18, 1978, 92 Stat. 668.)

**References in Text**

The Export Administration Act of 1969, referred to in subsecs. (a) and (b), is Pub. L. 91–184, Dec. 30, 1969, 83 Stat. 841, as amended, which was formerly classified to sections 2401 to 2413 of Title 50, Appendix, War and National Defense, and which terminated on Sept. 30, 1979, pursuant to the terms of that Act.

**§1355. Restrictions on employment of former officers or employees of Department of the Interior**

No full-time officer or employee of the Department of the Interior who directly or indirectly discharged duties or responsibilities under this subchapter, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule shall—

(1) within two years after his employment with the Department has ceased—

(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to; or

(C) knowingly aid or assist in representing any other person (except the United States) in any formal or informal appearance before any department, agency, or court of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, regulation, order, lease, permit, rulemaking, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee; or

(2) within one year after his employment with the Department has ceased—

(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before; or

(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to the Department of the Interior, or any officer or employee thereof, in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, or other particular matter which is pending before the Department of the Interior or in which the Department has a direct and substantial interest.

(Aug. 7, 1953, ch. 345, §29, as added Pub. L. 95–372, title II, §208, Sept. 18, 1978, 92 Stat. 668.)

### **References in Text**

The Executive Schedule, referred to in text, is set out in section 5311 et seq. of Title 5, Government Organization and Employees.

### **References in Other Laws to GS–16, 17, or 18 Pay Rates**

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

### **§1356. Documentary, registry and manning requirements**

#### **(a) Regulations**

Within six months after September 18, 1978, the Secretary of the Department in which the Coast Guard is operating shall issue regulations which require that any vessel, rig, platform, or other vehicle or structure—

(1) which is used at any time after the one-year period beginning on the effective date of such regulations for activities pursuant to this subchapter and which is built or rebuilt at any time after such one-year period, when required to be documented by the laws of the United States, be documented under the laws of the United States;

(2) which is used for activities pursuant to this subchapter, comply, except as provided in subsection (b) of this section, with such minimum standards of design, construction, alteration, and repair as the Secretary or the Secretary of the Department in which the Coast Guard is operating establishes; and

(3) which is used at any time after the one-year period beginning on the effective date of such regulations for activities pursuant to this subchapter, be manned or crewed, except as provided in subsection (c) of this section, by citizens of the United States or aliens lawfully admitted to the United States for permanent residence.

**(b) Exceptions from design, construction, alteration, and repair requirements**

The regulations issued under subsection (a)(2) of this section shall not apply to any vessel, rig, platform, or other vehicle or structure built prior to September 18, 1978, until such time after such date as such vehicle or structure is rebuilt.

**(c) Exceptions from manning requirements**

The regulations issued under subsection (a)(3) of this section shall not apply—

(1) to any vessel, rig, platform, or other vehicle or structure if—

(A) specific contractual provisions or national registry manning requirements in effect on September 18, 1978, provide to the contrary;

(B) there are not a sufficient number of citizens of the United States, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work; or

(C) the President makes a specific finding, with respect to the particular vessel, rig, platform, or other vehicle or structure, that application would not be consistent with the national interest; and

(2) to any vessel, rig, platform, or other vehicle or structure, over 50 percent of which is owned by citizens of a foreign nation or with respect to which the citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national



manning requirement for equipment engaged in the exploration, development, or production of oil and gas in its offshore areas.

(Aug. 7, 1953, ch. 345, §30, as added Pub. L. 95–372, title II, §208, Sept. 18, 1978, 92 Stat. 669.)

### **Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### **§1356a. Coastal impact assistance program**

#### **(a) Definitions**

In this section:

##### **(1) Coastal political subdivision**

The term “coastal political subdivision” means a political subdivision of a coastal State any part of which political subdivision is—

(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the coastal State as of August 8, 2005; and

(B) not more than 200 nautical miles from the geographic center of any leased tract.

##### **(2) Coastal population**

The term “coastal population” means the population, as determined by the most recent official data of the Census Bureau, of each political subdivision any part of which lies within the designated coastal boundary of a State (as defined in a State's coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)).

##### **(3) Coastal State**

The term “coastal State” has the meaning given the term in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

**(4) Coastline**

The term “coastline” has the meaning given the term “coast line” in section 1301 of this title.

**(5) Distance**

The term “distance” means the minimum great circle distance, measured in statute miles.

**(6) Leased tract**

The term “leased tract” means a tract that is subject to a lease under section 1335 or 1337 of this title for the purpose of drilling for, developing, and producing oil or natural gas resources.

**(7) Leasing moratoria**

The term “leasing moratoria” means the prohibitions on preleasing, leasing, and related activities on any geographic area of the outer Continental Shelf as contained in sections 107 through 109 of division E of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3063).

**(8) Political subdivision**

The term “political subdivision” means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs.

**(9) Producing State****(A) In general**

The term “producing State” means a coastal State that has a coastal seaward boundary within 200 nautical miles of the geographic center of a leased tract within any area of the outer Continental Shelf.

**(B) Exclusion**

The term “producing State” does not include a producing State, a majority of the coastline of which is subject to leasing moratoria, unless production was occurring on January 1, 2005, from a lease within 10 nautical miles of the coastline of that State.

**(10) Qualified Outer Continental Shelf revenues****(A) In general**

The term “qualified Outer Continental Shelf revenues” means all amounts received by the United States from each leased tract or portion of a leased tract—

(i) lying—

(I) seaward of the zone covered by section 1337(g) of this title; or

(II) within that zone, but to which section 1337(g) of this title does not apply; and

(ii) the geographic center of which lies within a distance of 200 nautical miles from any part of the coastline of any coastal State.

**(B) Inclusions**

The term “qualified Outer Continental Shelf revenues” includes bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued under this subchapter.

**(C) Exclusion**

The term “qualified Outer Continental Shelf revenues” does not include any revenues from a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on January 1, 2005.

**(b) Payments to producing States and coastal political subdivisions**

**(1) In general**

The Secretary shall, without further appropriation, disburse to producing States and coastal political subdivisions in accordance with this section \$250,000,000 for each of fiscal years 2007 through 2010.

**(2) Disbursement**

In each fiscal year, the Secretary shall disburse to each producing State for which the Secretary has approved a plan under subsection (c) of this section, and to coastal political subdivisions under paragraph (4), such funds as are allocated to the producing State or coastal political subdivision, respectively, under this section for the fiscal year.

**(3) Allocation among producing States**

**(A) In general**

Except as provided in subparagraph (C) and subject to subparagraph (D), the amounts available under paragraph (1) shall be allocated to each producing State based on the ratio that—

- (i) the amount of qualified outer Continental Shelf revenues generated off the coastline of the producing State; bears to
- (ii) the amount of qualified outer Continental Shelf revenues generated off the coastline of all producing States.

**(B) Amount of outer Continental Shelf revenues**

For purposes of subparagraph (A)—

- (i) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2007 and 2008 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2006; and
- (ii) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2009 and 2010 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2008.

**(C) Multiple producing States**

In a case in which more than one producing State is located within 200 nautical miles of any portion of a leased tract, the amount allocated to each producing State for the leased tract shall be inversely proportional to the distance between—

- (i) the nearest point on the coastline of the producing State; and
- (ii) the geographic center of the leased tract.

**(D) Minimum allocation**

The amount allocated to a producing State under subparagraph (A) shall be at least 1 percent of the amounts available under paragraph (1).

**(4) Payments to coastal political subdivisions**

**(A) In general**

The Secretary shall pay 35 percent of the allocable share of each producing State, as determined under paragraph (3) to the coastal political subdivisions in the producing State.

**(B) Formula**

Of the amount paid by the Secretary to coastal political subdivisions under subparagraph (A)—

(i) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

(I) the coastal population of the coastal political subdivision; bears to

(II) the coastal population of all coastal political subdivisions in the producing State;

(ii) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

(I) the number of miles of coastline of the coastal political subdivision; bears to

(II) the number of miles of coastline of all coastal political subdivisions in the producing State; and

(iii) 50 percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each coastal political subdivision that are closest to the geographic center of each leased tract, as determined by the Secretary.

**(C) Exception for the State of Louisiana**

For the purposes of subparagraph (B)(ii), the coastline for coastal political subdivisions in the State of Louisiana without a coastline shall be considered to be  $\frac{1}{3}$  the average length of the coastline of all coastal political subdivisions with a coastline in the State of Louisiana.

**(D) Exception for the State of Alaska**

For the purposes of carrying out subparagraph (B)(iii) in the State of Alaska, the amounts allocated shall be divided equally among the two coastal political subdivisions that are closest to the geographic center of a leased tract.

**(E) Exclusion of certain leased tracts**

For purposes of subparagraph (B)(iii), a leased tract or portion of a leased tract shall be excluded if the tract or portion of a leased tract is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on that date.

**(5) No approved plan**

**(A) In general**

Subject to subparagraph (B) and except as provided in subparagraph (C), in a case in which any amount allocated to a producing State or coastal political subdivision under paragraph (4) or (5) is not disbursed because the producing State does not have in effect a plan that has been approved by the Secretary under subsection (c) of this section, the Secretary shall allocate the undisbursed amount equally among all other producing States.

**(B) Retention of allocation**

The Secretary shall hold in escrow an undisbursed amount described in subparagraph (A) until such date as the final appeal regarding the disapproval of a plan submitted under subsection (c) of this section is decided.

**(C) Waiver**

The Secretary may waive subparagraph (A) with respect to an allocated share of a producing State and hold the allocable share in escrow if the Secretary determines that the producing State is making a good faith effort to develop and submit, or update, a plan in accordance with subsection (c) of this section.

**(c) Coastal impact assistance plan****(1) Submission of State plans****(A) In general**

Not later than July 1, 2008, the Governor of a producing State shall submit to the Secretary a coastal impact assistance plan.

**(B) Public participation**

In carrying out subparagraph (A), the Governor shall solicit local input and provide for public participation in the development of the plan.

**(2) Approval****(A) In general**

The Secretary shall approve a plan of a producing State submitted under paragraph (1) before disbursing any amount to the producing State, or to a coastal political subdivision located in the producing State, under this section.

**(B) Components**

The Secretary shall approve a plan submitted under paragraph (1) if—

(i) the Secretary determines that the plan is consistent with the uses described in subsection (d) of this section; and

(ii) the plan contains—

(I) the name of the State agency that will have the authority to represent and act on behalf of the producing State in dealing with the Secretary for purposes of this section;

(II) a program for the implementation of the plan that describes how the amounts provided under this section to the producing State will be used;

(III) for each coastal political subdivision that receives an amount under this section—

(aa) the name of a contact person; and

(bb) a description of how the coastal political subdivision will use amounts provided under this section;

(IV) a certification by the Governor that ample opportunity has been provided for public participation in the development and revision of the plan; and

(V) a description of measures that will be taken to determine the availability of assistance from other relevant Federal resources and programs.

**(3) Amendment**

Any amendment to a plan submitted under paragraph (1) shall be—

(A) developed in accordance with this subsection; and

(B) submitted to the Secretary for approval or disapproval under paragraph (4).

**(4) Procedure**

Not later than 90 days after the date on which a plan or amendment to a plan is submitted under paragraph (1) or (3), the Secretary shall approve or disapprove the plan or amendment.

**(d) Authorized uses**

**(1) In general**

A producing State or coastal political subdivision shall use all amounts received under this section, including any amount deposited in a trust fund that is administered by the State or coastal political subdivision and dedicated to uses consistent with this section, in accordance with all applicable Federal and State laws, only for one or more of the following purposes:

(A) Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.

(B) Mitigation of damage to fish, wildlife, or natural resources.

(C) Planning assistance and the administrative costs of complying with this section.

(D) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

(E) Mitigation of the impact of outer Continental Shelf activities through funding of onshore infrastructure projects and public service needs.

**(2) Compliance with authorized uses**

If the Secretary determines that any expenditure made by a producing State or coastal political subdivision is not consistent with this subsection, the Secretary shall not disburse any additional amount under this section to the producing State or the coastal political subdivision until such time as all amounts obligated for unauthorized uses have been repaid or reobligated for authorized uses.

**(3) Limitation**

Not more than 23 percent of amounts received by a producing State or coastal political subdivision for any 1 fiscal year shall be used for the purposes described in subparagraphs (C) and (E) of paragraph (1).

(Aug. 7, 1953, ch. 345, §31, as added Pub. L. 106-553, §1(a)(2) [title IX, §903], Dec. 21, 2000, 114 Stat. 2762, 2762A-124; amended Pub. L. 109-58, title III, §384, Aug. 8, 2005, 119 Stat. 739.)

**References in Text**

The Coastal Zone Management Act of 1972, referred to in subsec. (a)(2), is title III of Pub. L. 89-454, as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (§1451 et seq.) of Title 16, Conservation. For



complete classification of this Act to the Code, see Short Title note set out under section 1451 of Title 16 and Tables.

Sections 107 through 109 of division E of the Consolidated Appropriations Act, 2005, referred to in subsec. (a)(7), are sections 107 to 109 of Pub. L. 108–447, div. E, title I, Dec. 8, 2004, 118 Stat. 3063, 3064, which are not classified to the Code.

### **Amendments**

**2005**—Pub. L. 109–58 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (g) relating to construction of section, definitions, authorization of appropriations, payments to States and political subdivisions, coastal impact assistance plan by the Governor of each producing coastal State, authorized uses of amounts provided, and repayment of amounts inconsistent with authorized uses.

## **XI. ABANDONED SHIPWRECKS**

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(as of February 2010)  
 43 U.S.C. Ch. 39: ABANDONED SHIPWRECKS  
 From Title 43—PUBLIC LANDS

### **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.

#### **§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’.”

#### **§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>

(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.

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

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

### **§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.

**§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;
- (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.)

**§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.)

**§2106. Relationship to other laws**

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

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.)

## **XII. TRANSPORTATION (“SECTION 4[F]”) & (TRANSPORTATION ENHANCEMENT ACTIVITIES)**

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(As of January 2011)

49 U.S.C. 3 §303: POLICY ON LANDS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES

From Title 49—TRANSPORTATION

SUBTITLE I—DEPARTMENT OF TRANSPORTATION

CHAPTER 3—GENERAL DUTIES AND POWERS

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

### **§303. POLICY ON LANDS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES**

(a) It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

(b) The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.

(c) Approval of Programs and Projects.—Subject to subsection (d), the Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204 of title 23) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

(1) there is no prudent and feasible alternative to using that land; and

(2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

(d) De Minimis Impacts.—

(1) Requirements.—

(A) Requirements for historic sites.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.



(B) Requirements for parks, recreation areas, and wildlife or waterfowl refuges.—The requirements of subsection (c)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (c)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

(C) Criteria.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

(2) Historic sites.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

(i) the transportation program or project will have no adverse effect on the historic site; or

(ii) there will be no historic properties affected by the transportation program or project;

(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

(3) Parks, recreation areas, and wildlife or waterfowl refuges.—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 100-17, title I, §133(d), Apr. 2, 1987, 101 Stat. 173; Pub. L. 109-59, title VI, §6009(a)(2), Aug. 10, 2005, 119 Stat. 1875.)

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23 USC 1 §101: DEFINITIONS AND DECLARATION OF POLICY

23 USC 1 §133: SURFACE TRANSPORTATION PROGRAM

From Title 23—HIGHWAYS

CHAPTER 1—FEDERAL-AID HIGHWAYS

**§101. DEFINITIONS AND DECLARATION OF POLICY**

(a) Definitions.—In this title, the following definitions apply:

[OMITTED]

(35) Transportation enhancement activity.—The term “transportation enhancement activity” means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

(A) Provision of facilities for pedestrians and bicycles.

(B) Provision of safety and educational activities for pedestrians and bicyclists.

(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).

(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

(E) Landscaping and other scenic beautification.

(F) Historic preservation.

(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

(I) Inventory, control, and removal of outdoor advertising.

(J) Archaeological planning and research.

(K) Environmental mitigation—

- (i) to address water pollution due to highway runoff; or
- (ii) [1] reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

(L) Establishment of transportation museums.

[OMITTED]

[1] So in original. The word “to” probably should appear.

[OMITTED]

### **§133. SURFACE TRANSPORTATION PROGRAM**

(a) Establishment.—The Secretary shall establish a surface transportation program in accordance with this section.

(b) Eligible Projects.—A State may obligate funds apportioned to it under section 104(b)(3) for the surface transportation program only for the following:

(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title.

(2) Capital costs for transit projects eligible for assistance under chapter 53 of title 49, including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus.

(3) Carpool projects, fringe and corridor parking facilities and programs, bicycle transportation and pedestrian walkways in accordance with section 217, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(4) Highway and transit safety infrastructure improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.

(5) Highway and transit research and development and technology transfer programs.

(6) Capital and operating costs for traffic monitoring, management, and control facilities and programs, including advanced truck stop electrification systems.

(7) Surface transportation planning programs.

(8) Transportation enhancement activities.

(9) Transportation control measures listed in section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)).

(10) Development and establishment of management systems under section 303.

(11) In accordance with all applicable Federal law and regulations, participation in natural habitat and wetlands mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands; and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes. With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).

(12) Projects relating to intersections that—

(A) have disproportionately high accident rates;

(B) have high levels of congestion, as evidenced by—

(i) interrupted traffic flow at the intersection; and

(ii) a level of service rating that is not better than “F” during peak travel hours, calculated in accordance with the Highway Capacity Manual issued by the Transportation Research Board; and

(C) are located on a Federal-aid highway.

(13) Infrastructure-based intelligent transportation systems capital improvements.

(14) Environmental restoration and pollution abatement in accordance with section 328.

(15) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

(c) Location of Projects.—Except as provided in subsection (b)(1), surface transportation program projects (other than those described in subsections (b)(3) and (4)) may not be undertaken on roads functionally classified as local or rural minor collectors, unless such roads are on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary.

(d) Allocations of Apportioned Funds.—

[ (1) Repealed. Pub. L. 109–59, title I, §1113(b)(1), Aug. 10, 2005, 119 Stat. 1172.]

(2) For transportation enhancement activities.—In a fiscal year, the greater of 10 percent of the funds apportioned to a State under section 104(b)(3) for such fiscal year, or the amount set aside under this paragraph with respect to the State for fiscal year 2005, shall only be available for transportation enhancement activities.

(3) Division between urbanized areas of over 200,000 population and other areas.—

(A) General rule.—Except as provided in subparagraph (C), 62.5 percent of the remaining 90 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year shall be obligated under this section—

(i) in urbanized areas of the State with an urbanized area population of over 200,000, and

(ii) in other areas of the State, in proportion to their relative share of the State's population. The remaining 37.5 percent may be obligated in any area of the State. Funds attributed to an urbanized area under clause (i) may be obligated in the metropolitan area established under section 134 which encompasses the urbanized area.

(B) Special rule for areas of less than 5,000 population.—Of the amounts required to be obligated under subparagraph (A)(ii), the State shall obligate in areas of the State (other than urban areas with a population greater than 5,000) an amount which is not less than

110 percent of the amount of funds apportioned to the State for the Federal-aid secondary system for fiscal year 1991.

(C) Noncontiguous states exemption.—Subparagraph (A) shall not apply to Hawaii and Alaska.

(D) Distribution between urbanized areas of over 200,000 population.—The amount of funds which a State is required to obligate under subparagraph (A)(i) shall be obligated in urbanized areas described in subparagraph (A)(i) based on the relative population of such areas; except that the State may obligate such funds based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to do so and the Secretary grants the request.

(4) Applicability of planning requirements.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.

(5) Applicability of certain requirements to third party sellers.—

(A) In general.—Except as provided in subparagraphs (B) and (C), in the case of a transportation enhancement activity funded from the allocation required under paragraph (2), if real property or an interest in real property is to be acquired from a qualified organization exclusively for conservation purposes (as determined under section 170(h) of the Internal Revenue Code of 1986), the organization shall be considered to be the owner of the property for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(B) Federal approval prior to involvement of qualified organization.—If Federal approval of the acquisition of the real property or interest predates the involvement of a qualified organization described in subparagraph (A) in the acquisition of the property, the organization shall be considered to be an acquiring agency or person as described in section 24.101(a)(2) of title 49, Code of Federal Regulations, for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(C) Acquisitions on behalf of recipients of federal funds.—If a qualified organization described in subparagraph (A) has contracted with a State transportation department or other recipient of Federal funds to acquire the real property or interest on behalf of the recipient, the organization shall be considered to be an agent of the recipient for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(e) Administration.—

(1) Noncompliance.—If the Secretary determines that a State or local government has failed to comply substantially with any provision of this section, the Secretary shall notify the State that, if the State fails to take corrective action within 60 days from the date of receipt of the notification, the Secretary will withhold future apportionments under section 104(b)(3) until the Secretary is satisfied that appropriate corrective action has been taken.

(2) Program approval.—

(A) Submission of project agreement.—For each fiscal year, each State shall submit a project agreement that—

(i) certifies that the State will meet all the requirements of this section; and

(ii) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

(B) Request for adjustments of amounts.—Each State shall request from the Secretary such adjustments to the amount of obligations referred to in subparagraph (A)(ii) as the State determines to be necessary.

(C) Effect of approval by the secretary.—Approval by the Secretary of a project agreement under subparagraph (A) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.

(3) Payments.—

(A) In general.—Except as provided in subparagraph (B), the Secretary shall make payments to a State of costs incurred by the State for the surface transportation program in accordance with procedures to be established by the Secretary.

(B) Advance payment option for transportation enhancement activities.—

(i) In general.—The Secretary may advance funds to the State for transportation enhancement activities funded from the allocation required by subsection (d)(2) for a fiscal year.

(ii) Limitation on amounts.—Amounts advanced under this subparagraph shall be limited to such amounts as are necessary to make prompt payments for project costs.

(iii) Effect on other requirements.—This subparagraph shall not exempt a State from other requirements of this title relating to the surface transportation program.

(4) Population determinations.—The Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures for purposes of this section.

(5) Transportation enhancement activities.—

(A) Categorical exclusions.—To the extent appropriate, the Secretary shall develop categorical exclusions from the requirement that an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) be prepared for transportation enhancement activities funded from the allocation required by subsection (d)(2).

(B) Nationwide programmatic agreement.—The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), shall develop a nationwide programmatic agreement governing the review of transportation enhancement activities funded from the allocation required by subsection (d)(2), in accordance with—

(i) section 106 of such Act (16 U.S.C. 470f); and

(ii) the regulations of the Advisory Council on Historic Preservation.

(C) Cost sharing.—

(i) Required aggregate non-federal share.—The average annual non-Federal share of the total cost of all projects to carry out transportation enhancement activities in a State for a fiscal year shall be not less than the non-Federal share authorized for the State under section 120(b).

(ii) Innovative financing.—Subject to clause (i), notwithstanding section 120—

(I) funds from other Federal agencies and the value of other contributions (as determined by the Secretary) may be credited toward the non-Federal share of the costs of a project to carry out a transportation enhancement activity;

(II) the non-Federal share for such a project may be calculated on a project, multiple-project, or program basis; and

(III) the Federal share of the cost of an individual project to which subclause (I) or (II) applies may be up to 100 percent.



## (f) Obligation Authority.—

(1) In general.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3) shall make available during the period of fiscal years 2004 through 2006 and the period of fiscal years 2007 through 2009 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during the period; and

(B) the ratio that—

(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

(2) Joint responsibility.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).

(Added Pub. L. 102–240, title I, §1007(a)(1), Dec. 18, 1991, 105 Stat. 1927; amended Pub. L. 103–429, §3(4), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 104–59, title III, §§315, 316, Nov. 28, 1995, 109 Stat. 586, 587; Pub. L. 105–178, title I, §§1108(a)–(e), 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 138–140, 193; Pub. L. 109–59, title I, §1113(a)–(b)(2), (c)–(e), title VI, §6006(a)(2), Aug. 10, 2005, 119 Stat. 1171, 1172, 1872.)

**References in Text**

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(3), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Water Resources Development Act of 1990, referred to in subsec. (b)(11), is Pub. L. 101–640, Nov. 28, 1990, 104 Stat. 4604. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 2201 of Title 33, Navigation and Navigable Waters, and Tables.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (d)(5), is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, as amended, which is classified generally to chapter 61 (§4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

Section 170(h) of the Internal Revenue Code of 1986, referred to in subsec. (d)(5)(A), is classified to section 170(h) of Title 26, Internal Revenue Code.

The National Historic Preservation Act, referred to in subsec. (e)(5)(B), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended. Title II of the Act is classified generally to part B (§470i et seq.) of subchapter II of chapter 1A of Title 16, Conservation. For complete classification of this Act to the Code, see section 470 of Title 16 and Tables.

### **Prior Provisions**

A prior section 133, Pub. L. 87–866, §5(a), Oct. 23, 1962, 76 Stat. 1146, provided for relocation assistance for persons displaced by Federal-aid highway construction, prior to repeal by Pub. L. 90–495, §37, Aug. 23, 1968, 82 Stat. 836, effective July 1, 1970. See section 501 et seq. of this title.

### **Amendments**

**2005**—Subsec. (b)(6). Pub. L. 109–59, §1113(a)(1), inserted “, including advanced truck stop electrification systems” before period at end.

Subsec. (b)(12). Pub. L. 109–59, §1113(a)(2), added par. (12).

Subsec. (b)(14), (15). Pub. L. 109–59, §6006(a)(2), added pars. (14) and (15) and struck out former par. (14) which read as follows: “Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.”

Subsec. (d)(1). Pub. L. 109–59, §1113(b)(1), struck out heading and text of par. (1). Text read as follows: “10 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program for a fiscal year shall only be available for carrying out sections 130 and 152 of this title. Of the funds set aside under the preceding sentence, the State shall reserve in such fiscal year an amount of such funds for carrying

out each such section which is not less than the amount of funds apportioned to the State in fiscal year 1991 under such section.”

Subsec. (d)(2). Pub. L. 109–59, §1113(c), substituted “In a fiscal year, the greater of 10 percent of the funds apportioned to a State under section 104(b)(3) for such fiscal year, or the amount set aside under this paragraph with respect to the State for fiscal year 2005,” for “10 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year”.

Subsec. (d)(3)(A). Pub. L. 109–59, §1113(b)(2)(A)(ii), substituted “90 percent” for “80 percent” in introductory provisions.

Pub. L. 109–59, §1113(b)(2)(A)(i), substituted “subparagraph (C)” for “subparagraphs (C) and (D)” in introductory provisions.

Subsec. (d)(3)(B). Pub. L. 109–59, §1113(b)(2)(B), substituted “to be” for “tobe”.

Subsec. (d)(3)(C) to (E). Pub. L. 109–59, §1113(b)(2)(C), redesignated subpar. (D) as (C), inserted period at end, redesignated par. (E) as (D), and struck out former subpar. (C) which related to special rule in the case of a State in which greater than 80 percent of the population of the State was located in 1 or more metropolitan statistical areas, and greater than 80 percent of the land area of such State was owned by the United States.

Subsec. (f). Pub. L. 109–59, §1113(e), amended directory language of Pub. L. 105–178, §1108(e). See 1998 Amendment note below.

Subsec. (f)(1). Pub. L. 109–59, §1113(d), substituted “2004 through 2006” for “1998 through 2000” and “2007 through 2009” for “2001 through 2003” in introductory provisions.

**1998**—Subsec. (b)(1). Pub. L. 105–178, §1108(a)(1), inserted “, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions” after “calcium magnesium acetate”.

Subsec. (b)(2). Pub. L. 105–178, §1108(a)(2), substituted “, including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus” for “and publicly owned intracity or intercity bus terminals and facilities”.

Subsec. (b)(3). Pub. L. 105–178, §1108(a)(3), substituted “bicycle” for “and bicycle” and inserted before period at end “, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)”.

Subsec. (b)(4). Pub. L. 105–178, §1108(a)(4), substituted “Highway and transit safety infrastructure” for “Highway and transit safety”.

Subsec. (b)(9). Pub. L. 105–178, §1108(a)(5), substituted “section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))” for “section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act”.

Subsec. (b)(11). Pub. L. 105–178, §1108(a)(6), in first sentence, inserted “natural habitat and” after “participation in” in two places and also before “wetlands conservation and mitigation plans” and substituted “enhance, and create natural habitats and wetlands” for “enhance and create wetlands” and inserted at end “With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).”

Subsec. (b)(13), (14). Pub. L. 105–178, §1108(a)(7), added pars. (13) and (14).

Subsec. (d)(3)(D). Pub. L. 105–178, §1108(b)(1), substituted “Hawaii and Alaska” for “any State which is noncontiguous with the continental United States.”

Subsec. (d)(5)(C). Pub. L. 105–178, §1212(a)(2)(A)(i), substituted “State transportation department” for “State highway department”.

Subsec. (e)(2). Pub. L. 105–178, §1108(c), added par. (2) and struck out heading and text of former par. (2). Text read as follows: “The Governor of each State shall certify before the beginning of each quarter of a fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for surface transportation program projects during such quarter. A State may request adjustment to the obligation amounts later in each of such quarters. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the surface transportation program funds expected to be obligated by the State in such quarter for projects not subject to review by the Secretary under this chapter.”

Subsec. (e)(3)(A). Pub. L. 105–178, §1108(d), struck out at end “Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments.”

Subsec. (e)(3)(B)(i). Pub. L. 105–178, §1108(b)(2)(A), struck out before period at end “if the Secretary certifies for the fiscal year that the State has authorized and uses a process for the selection of transportation enhancement projects that involves

representatives of affected public entities, and private citizens, with expertise related to transportation enhancement activities”.

Subsec. (e)(5)(C). Pub. L. 105–178, §1108(b)(2)(B), added subpar. (C).

Subsec. (f). Pub. L. 105–178, §1108(e), as amended by Pub. L. 109–59, §1113(e), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: “A State which is required to obligate in an urbanized area with an urbanized area population of over 200,000 under subsection (d) funds apportioned to it under section 104(b)(3) shall allocate during the 6-fiscal year period 1992 through 1997 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction for use in such area determined by multiplying—

“(1) the aggregate amount of funds which the State is required to obligate in such area under subsection (d) during such period; by

“(2) the ratio of the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction during such period to the total sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to an obligation limitation) during such period.”

**1995**—Subsec. (d)(5). Pub. L. 104–59, §315, added par. (5).

Subsec. (e)(3). Pub. L. 104–59, §316(1), designated existing provisions as subpar. (A), inserted subpar. (A) heading, realigned margins, substituted “Except as provided in subparagraph (B), the” for “The”, and added subpar. (B).

Subsec. (e)(5). Pub. L. 104–59, §316(2), added par. (5).

**1994**—Subsec. (b)(2). Pub. L. 103–429 substituted “chapter 53 of title 49” for “the Federal Transit Act”.

### **Effective Date of 2005 Amendment**

Pub. L. 109–59, title I, §1113(b)(3), Aug. 10, 2005, 119 Stat. 1172, provided that: “Paragraph (1) and paragraph (2)(A)(ii) of this subsection [amending this section] shall take effect October 1, 2005.”

Pub. L. 109–59, title I, §1113(c), Aug. 10, 2005, 119 Stat. 1172, provided that the amendment made by section 1113(c) is effective Oct. 1, 2005.

Pub. L. 109–59, title I, §1113(e), Aug. 10, 2005, 119 Stat. 1172, provided that the amendment made by section 1113(e) is effective June 9, 1998.

**Effective Date**

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as an Effective Date of 1991 Amendment note under section 104 of this title.

**Division of STP Funds for Areas of Less Than 5,000 Population**

Pub. L. 105-178, title I, §1108(f), June 9, 1998, 112 Stat. 141, as amended by Pub. L. 110-244, title I, §113(a), June 6, 2008, 122 Stat. 1606, provided that:

“(1) Special rule.—Notwithstanding section 133(c) of title 23, United States Code, and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated under section 133(d)(3)(B) of such title for each of fiscal years 1998 through 2009 may be obligated on roads functionally classified as minor collectors.

“(2) Suspension.—The Secretary may suspend the application of paragraph (1) if the Secretary determines that paragraph (1) is being used excessively.”

**Encouragement of Use of Youth Conservation or Service Corps**

Pub. L. 105-178, title I, §1108(g), June 9, 1998, 112 Stat. 141, provided that: “The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform appropriate transportation enhancement activities under chapter 1 of title 23, United States Code.”

[OMITTED]

**APPENDIX B**

**THE UNESCO CONVENTION ON THE PROTECTION OF THE**

**UNDERWATER CULTURAL HERITAGE**

## OFFICIAL TEXT

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 15 October to 3 November 2001, at its 31st session,

**Acknowledging** the importance of underwater cultural heritage as an integral part of the cultural heritage of humanity and a particularly important element in the history of peoples, nations, and their relations with each other concerning their common heritage,

**Realizing** the importance of protecting and preserving the underwater cultural heritage and that responsibility therefor rests with all States,

**Noting** growing public interest in and public appreciation of underwater cultural heritage,

**Convinced** of the importance of research, information and education to the protection and preservation of underwater cultural heritage,

**Convinced** of the public's right to enjoy the educational and recreational benefits of responsible non-intrusive access to in situ underwater cultural heritage, and of the value of public education to contribute to awareness, appreciation and protection of that heritage,

**Aware** of the fact that underwater cultural heritage is threatened by unauthorized activities directed at it, and of the need for stronger measures to prevent such activities,

**Conscious** of the need to respond appropriately to the possible negative impact on underwater cultural heritage of legitimate activities that may incidentally affect it,

**Deeply** concerned by the increasing commercial exploitation of underwater cultural heritage, and in particular by certain activities aimed at the sale, acquisition or barter of underwater cultural heritage,

**Aware** of the availability of advanced technology that enhances discovery of and access to underwater cultural heritage,

**Believing** that cooperation among States, international organizations, scientific institutions, professional organizations, archaeologists, divers, other interested parties and the public at large is essential for the protection of underwater cultural heritage,

**Considering** that survey, excavation and protection of underwater cultural heritage necessitate the availability and application of special scientific methods and the use of suitable techniques and equipment as well as a high degree of professional specialization, all of which indicate a need for uniform governing criteria,



**Realizing** the need to codify and progressively develop rules relating to the protection and preservation of underwater cultural heritage in conformity with international law and practice, including the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 14 November 1970, the UNESCO Convention for the Protection of the World Cultural and Natural Heritage of 16 November 1972 and the United Nations Convention on the Law of the Sea of 10 December 1982,

**Committed** to improving the effectiveness of measures at international, regional and national levels for the preservation in situ or, if necessary for scientific or protective purposes, the careful recovery of underwater cultural heritage,

**Having** decided at its twenty-ninth session that this question should be made the subject of an international convention,

Adopts this second day of November 2001 this Convention.

#### **Article 1 – Definitions**

For the purposes of this Convention:

1. (a) “Underwater cultural heritage” means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years such as:

(i) sites, structures, buildings, artefacts and human remains, together with their archaeological and natural context;

(ii) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and

(iii) objects of prehistoric character.

(b) Pipelines and cables placed on the seabed shall not be considered as underwater cultural heritage.

(c) Installations other than pipelines and cables, placed on the seabed and still in use, shall not be considered as underwater cultural heritage.

2. (a) “States Parties” means States which have consented to be bound by this Convention and for which this Convention is in force.

(b) This Convention applies *mutatis mutandis* to those territories referred to in Article 26, paragraph 2(b), which become Parties to this Convention in accordance with the conditions set out in that paragraph, and to that extent “States Parties” refers to those territories.

3. “UNESCO” means the United Nations Educational, Scientific and Cultural Organization.

4. “Director-General” means the Director-General of UNESCO.

5. “Area” means the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction.

6. “Activities directed at underwater cultural heritage” means activities having underwater cultural heritage as their primary object and which may, directly or indirectly, physically disturb or otherwise damage underwater cultural heritage.

7. “Activities incidentally affecting underwater cultural heritage” means activities which, despite not having underwater cultural heritage as their primary object or one of their objects, may physically disturb or otherwise damage underwater cultural heritage.

8. “State vessels and aircraft” means warships, and other vessels or aircraft that were owned or operated by a State and used, at the time of sinking, only for government non-commercial purposes, that are identified as such and that meet the definition of underwater cultural heritage.

9. “Rules” means the Rules concerning activities directed at underwater cultural heritage, as referred to in Article 33 of this Convention.

## **Article 2 – Objectives and general principles**

1. This Convention aims to ensure and strengthen the protection of underwater cultural heritage.

2. States Parties shall cooperate in the protection of underwater cultural heritage.

3. States Parties shall preserve underwater cultural heritage for the benefit of humanity in conformity with the provisions of this Convention.

4. States Parties shall, individually or jointly as appropriate, take all appropriate measures in conformity with this Convention and with international law that are necessary to protect underwater cultural heritage, using for this purpose the best practicable means at their disposal and in accordance with their capabilities.

5. The preservation in situ of underwater cultural heritage shall be considered as the first option before allowing or engaging in any activities directed at this heritage.
6. Recovered underwater cultural heritage shall be deposited, conserved and managed in a manner that ensures its long-term preservation.
7. Underwater cultural heritage shall not be commercially exploited.
8. Consistent with State practice and international law, including the United Nations Convention on the Law of the Sea, nothing in this Convention shall be interpreted as modifying the rules of international law and State practice pertaining to sovereign immunities, nor any State's rights with respect to its State vessels and aircraft.
9. States Parties shall ensure that proper respect is given to all human remains located in maritime waters.
10. Responsible non-intrusive access to observe or document in situ underwater cultural heritage shall be encouraged to create public awareness, appreciation, and protection of the heritage except where such access is incompatible with its protection and management.
11. No act or activity undertaken on the basis of this Convention shall constitute grounds for claiming, contending or disputing any claim to national sovereignty or jurisdiction.

### **Article 3 – Relationship between this Convention and the United Nations Convention on the Law of the Sea**

Nothing in this Convention shall prejudice the rights, jurisdiction and duties of States under international law, including the United Nations Convention on the Law of the Sea. This Convention shall be interpreted and applied in the context of and in a manner consistent with international law, including the United Nations Convention on the Law of the Sea.

### **Article 4 – Relationship to law of salvage and law of finds**

Any activity relating to underwater cultural heritage to which this Convention applies shall not be subject to the law of salvage or law of finds, unless it:

- (a) is authorized by the competent authorities, and
- (b) is in full conformity with this Convention, and
- (c) ensures that any recovery of the underwater cultural heritage achieves its maximum protection.

**Article 5 – Activities incidentally affecting underwater cultural heritage**

Each State Party shall use the best practicable means at its disposal to prevent or mitigate any adverse effects that might arise from activities under its jurisdiction incidentally affecting underwater cultural heritage.

**Article 6 – Bilateral, regional or other multilateral agreements**

1. States Parties are encouraged to enter into bilateral, regional or other multilateral agreements or develop existing agreements, for the preservation of underwater cultural heritage. All such agreements shall be in full conformity with the provisions of this Convention and shall not dilute its universal character. States may, in such agreements, adopt rules and regulations which would ensure better protection of underwater cultural heritage than those adopted in this Convention.
2. The Parties to such bilateral, regional or other multilateral agreements may invite States with a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned to join such agreements.
3. This Convention shall not alter the rights and obligations of States Parties regarding the protection of sunken vessels, arising from other bilateral, regional or other multilateral agreements concluded before its adoption, and, in particular, those that are in conformity with the purposes of this Convention.

**Article 7 – Underwater cultural heritage in internal waters, archipelagic waters and territorial sea**

1. States Parties, in the exercise of their sovereignty, have the exclusive right to regulate and authorize activities directed at underwater cultural heritage in their internal waters, archipelagic waters and territorial sea.
2. Without prejudice to other international agreements and rules of international law regarding the protection of underwater cultural heritage, States Parties shall require that the Rules be applied to activities directed at underwater cultural heritage in their internal waters, archipelagic waters and territorial sea.
3. Within their archipelagic waters and territorial sea, in the exercise of their sovereignty and in recognition of general practice among States, States Parties, with a view to cooperating on the best methods of protecting State vessels and aircraft, should inform the flag State Party to this Convention and, if applicable, other States with a verifiable link, especially a cultural, historical or archaeological link, with respect to the discovery of such identifiable State vessels and aircraft.

**Article 8 – Underwater cultural heritage in the contiguous zone**

Without prejudice to and in addition to Articles 9 and 10, and in accordance with Article 303, paragraph 2, of the United Nations Convention on the Law of the Sea, States Parties may regulate and authorize activities directed at underwater cultural heritage within their contiguous zone. In so doing, they shall require that the Rules be applied.

**Article 9 – Reporting and notification in the exclusive economic zone and on the continental shelf**

1. All States Parties have a responsibility to protect underwater cultural heritage in the exclusive economic zone and on the continental shelf in conformity with this Convention.

Accordingly:

(a) a State Party shall require that when its national, or a vessel flying its flag, discovers or intends to engage in activities directed at underwater cultural heritage located in its exclusive economic zone or on its continental shelf, the national or the master of the vessel shall report such discovery or activity to it;

(b) in the exclusive economic zone or on the continental shelf of another State Party:

(i) States Parties shall require the national or the master of the vessel to report such discovery or activity to them and to that other State Party;

(ii) alternatively, a State Party shall require the national or master of the vessel to report such discovery or activity to it and shall ensure the rapid and effective transmission of such reports to all other States Parties.

2. On depositing its instrument of ratification, acceptance, approval or accession, a State Party shall declare the manner in which reports will be transmitted under paragraph 1(b) of this Article.

3. A State Party shall notify the Director-General of discoveries or activities reported to it under paragraph 1 of this Article.

4. The Director-General shall promptly make available to all States Parties any information notified to him under paragraph 3 of this Article.

5. Any State Party may declare to the State Party in whose exclusive economic zone or on whose continental shelf the underwater cultural heritage is located its interest in being consulted on how to ensure the effective protection of that underwater cultural heritage. Such declaration shall be based on a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned.

**Article 10 – Protection of underwater cultural heritage in the exclusive economic zone and on the continental shelf**

1. No authorization shall be granted for an activity directed at underwater cultural heritage located in the exclusive economic zone or on the continental shelf except in conformity with the provisions of this Article.
2. A State Party in whose exclusive economic zone or on whose continental shelf underwater cultural heritage is located has the right to prohibit or authorize any activity directed at such heritage to prevent interference with its sovereign rights or jurisdiction as provided for by international law including the United Nations Convention on the Law of the Sea.
3. Where there is a discovery of underwater cultural heritage or it is intended that activity shall be directed at underwater cultural heritage in a State Party's exclusive economic zone or on its continental shelf, that State Party shall:
  - (a) consult all other States Parties which have declared an interest under Article 9, paragraph 5, on how best to protect the underwater cultural heritage;
  - (b) coordinate such consultations as "Coordinating State", unless it expressly declares that it does not wish to do so, in which case the States Parties which have declared an interest under Article 9, paragraph 5, shall appoint a Coordinating State.
4. Without prejudice to the duty of all States Parties to protect underwater cultural heritage by way of all practicable measures taken in accordance with international law to prevent immediate danger to the underwater cultural heritage, including looting, the Coordinating State may take all practicable measures, and/or issue any necessary authorizations in conformity with this Convention and, if necessary prior to consultations, to prevent any immediate danger to the underwater cultural heritage, whether arising from human activities or any other cause, including looting. In taking such measures assistance may be requested from other States Parties.
5. The Coordinating State:
  - (a) shall implement measures of protection which have been agreed by the consulting States, which include the Coordinating State, unless the consulting States, which include the Coordinating State, agree that another State Party shall implement those measures;
  - (b) shall issue all necessary authorizations for such agreed measures in conformity with the Rules, unless the consulting States, which include the Coordinating State, agree that another State Party shall issue those authorizations;

(c) may conduct any necessary preliminary research on the underwater cultural heritage and shall issue all necessary authorizations therefore, and shall promptly inform the Director-General of the results, who in turn will make such information promptly available to other States Parties.

6. In coordinating consultations, taking measures, conducting preliminary research and/or issuing authorizations pursuant to this Article, the Coordinating State shall act on behalf of the States Parties as a whole and not in its own interest. Any such action shall not in itself constitute a basis for the assertion of any preferential or jurisdictional rights not provided for in international law, including the United Nations Convention on the Law of the Sea.

7. Subject to the provisions of paragraphs 2 and 4 of this Article, no activity directed at State vessels and aircraft shall be conducted without the agreement of the flag State and the collaboration of the Coordinating State.

#### **Article 11 – Reporting and notification in the Area**

1. States Parties have a responsibility to protect underwater cultural heritage in the Area in conformity with this Convention and Article 149 of the United Nations Convention on the Law of the Sea. Accordingly when a national, or a vessel flying the flag of a State Party, discovers or intends to engage in activities directed at underwater cultural heritage located in the Area, that State Party shall require its national, or the master of the vessel, to report such discovery or activity to it.

2. States Parties shall notify the Director-General and the Secretary-General of the International Seabed Authority of such discoveries or activities reported to them.

3. The Director-General shall promptly make available to all States Parties any such information supplied by States Parties.

4. Any State Party may declare to the Director-General its interest in being consulted on how to ensure the effective protection of that underwater cultural heritage. Such declaration shall be based on a verifiable link to the underwater cultural heritage concerned, particular regard being paid to the preferential rights of States of cultural, historical or archaeological origin.

#### **Article 12 – Protection of underwater cultural heritage in the Area**

1. No authorization shall be granted for any activity directed at underwater cultural heritage located in the Area except in conformity with the provisions of this Article.

2. The Director-General shall invite all States Parties which have declared an interest under Article 11, paragraph 4, to consult on how best to protect the underwater cultural

heritage, and to appoint a State Party to coordinate such consultations as the “Coordinating State”. The Director-General shall also invite the International Seabed Authority to participate in such consultations.

3. All States Parties may take all practicable measures in conformity with this Convention, if necessary prior to consultations, to prevent any immediate danger to the underwater cultural heritage, whether arising from human activity or any other cause including looting.

4. The Coordinating State shall:

(a) implement measures of protection which have been agreed by the consulting States, which include the Coordinating State, unless the consulting States, which include the Coordinating State, agree that another State Party shall implement those measures; and

(b) issue all necessary authorizations for such agreed measures, in conformity with this Convention, unless the consulting States, which include the Coordinating State, agree that another State Party shall issue those authorizations.

5. The Coordinating State may conduct any necessary preliminary research on the underwater cultural heritage and shall issue all necessary authorizations therefor, and shall promptly inform the Director-General of the results, who in turn shall make such information available to other States Parties.

6. In coordinating consultations, taking measures, conducting preliminary research, and/or issuing authorizations pursuant to this Article, the Coordinating State shall act for the benefit of humanity as a whole, on behalf of all States Parties. Particular regard shall be paid to the preferential rights of States of cultural, historical or archaeological origin in respect of the underwater cultural heritage concerned.

7. No State Party shall undertake or authorize activities directed at State vessels and aircraft in the Area without the consent of the flag State.

### **Article 13 – Sovereign immunity**

Warships and other government ships or military aircraft with sovereign immunity, operated for non-commercial purposes, undertaking their normal mode of operations, and not engaged in activities directed at underwater cultural heritage, shall not be obliged to report discoveries of underwater cultural heritage under Articles 9, 10, 11 and 12 of this Convention. However States Parties shall ensure, by the adoption of appropriate measures not impairing the operations or operational capabilities of their warships or other government ships or military aircraft with sovereign immunity operated for non-commercial purposes, that they comply, as far as is reasonable and practicable, with Articles 9, 10, 11 and 12 of this Convention.



**Article 14 – Control of entry into the territory, dealing and possession**

States Parties shall take measures to prevent the entry into their territory, the dealing in, or the possession of, underwater cultural heritage illicitly exported and/or recovered, where recovery was contrary to this Convention.

**Article 15 – Non-use of areas under the jurisdiction of States Parties**

States Parties shall take measures to prohibit the use of their territory, including their maritime ports, as well as artificial islands, installations and structures under their exclusive jurisdiction or control, in support of any activity directed at underwater cultural heritage which is not in conformity with this Convention.

**Article 16 – Measures relating to nationals and vessels**

States Parties shall take all practicable measures to ensure that their nationals and vessels flying their flag do not engage in any activity directed at underwater cultural heritage in a manner not in conformity with this Convention.

**Article 17 – Sanctions**

1. Each State Party shall impose sanctions for violations of measures it has taken to implement this Convention.
2. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance with this Convention and to discourage violations wherever they occur and shall deprive offenders of the benefit deriving from their illegal activities.
3. States Parties shall cooperate to ensure enforcement of sanctions imposed under this Article.

**Article 18 – Seizure and disposition of underwater cultural heritage**

1. Each State Party shall take measures providing for the seizure of underwater cultural heritage in its territory that has been recovered in a manner not in conformity with this Convention.
2. Each State Party shall record, protect and take all reasonable measures to stabilize underwater cultural heritage seized under this Convention.
3. Each State Party shall notify the Director-General and any other State with a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural

heritage concerned of any seizure of underwater cultural heritage that it has made under this Convention.

4. A State Party which has seized underwater cultural heritage shall ensure that its disposition be for the public benefit, taking into account the need for conservation and research; the need for reassembly of a dispersed collection; the need for public access, exhibition and education; and the interests of any State with a verifiable link, especially a cultural, historical or archaeological link, in respect of the underwater cultural heritage concerned.

#### **Article 19 – Cooperation and information-sharing**

1. States Parties shall cooperate and assist each other in the protection and management of underwater cultural heritage under this Convention, including, where practicable, collaborating in the investigation, excavation, documentation, conservation, study and presentation of such heritage.

2. To the extent compatible with the purposes of this Convention, each State Party undertakes to share information with other States Parties concerning underwater cultural heritage, including discovery of heritage, location of heritage, heritage excavated or recovered contrary to this Convention or otherwise in violation of international law, pertinent scientific methodology and technology, and legal developments relating to such heritage.

3. Information shared between States Parties, or between UNESCO and States Parties, regarding the discovery or location of underwater cultural heritage shall, to the extent compatible with their national legislation, be kept confidential and reserved to competent authorities of States Parties as long as the disclosure of such information might endanger or otherwise put at risk the preservation of such underwater cultural heritage.

4. Each State Party shall take all practicable measures to disseminate information, including where feasible through appropriate international databases, about underwater cultural heritage excavated or recovered contrary to this Convention or otherwise in violation of international law.

#### **Article 20 – Public awareness**

Each State Party shall take all practicable measures to raise public awareness regarding the value and significance of underwater cultural heritage and the importance of protecting it under this Convention.

#### **Article 21 – Training in underwater archaeology**

States Parties shall cooperate in the provision of training in underwater archaeology, in techniques for the conservation of underwater cultural heritage and, on agreed terms, in the transfer of technology relating to underwater cultural heritage.

#### **Article 22 – Competent authorities**

1. In order to ensure the proper implementation of this Convention, States Parties shall establish competent authorities or reinforce the existing ones where appropriate, with the aim of providing for the establishment, maintenance and updating of an inventory of underwater cultural heritage, the effective protection, conservation, presentation and management of underwater cultural heritage, as well as research and education.
2. States Parties shall communicate to the Director-General the names and addresses of their competent authorities relating to underwater cultural heritage.

#### **Article 23 – Meetings of States Parties**

1. The Director-General shall convene a Meeting of States Parties within one year of the entry into force of this Convention and thereafter at least once every two years. At the request of a majority of States Parties, the Director-General shall convene an Extraordinary Meeting of States Parties.
2. The Meeting of States Parties shall decide on its functions and responsibilities.
3. The Meeting of States Parties shall adopt its own Rules of Procedure.
4. The Meeting of States Parties may establish a Scientific and Technical Advisory Body composed of experts nominated by the States Parties with due regard to the principle of equitable geographical distribution and the desirability of a gender balance.
5. The Scientific and Technical Advisory Body shall appropriately assist the Meeting of States Parties in questions of a scientific or technical nature regarding the implementation of the Rules.

#### **Article 24 – Secretariat for this Convention**

1. The Director-General shall be responsible for the functions of the Secretariat for this Convention.
2. The duties of the Secretariat shall include:
  - (a) organizing Meetings of States Parties as provided for in Article 23, paragraph 1; and

(b) assisting States Parties in implementing the decisions of the Meetings of States Parties.

#### **Article 25 – Peaceful settlement of disputes**

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention shall be subject to negotiations in good faith or other peaceful means of settlement of their own choice.
2. If those negotiations do not settle the dispute within a reasonable period of time, it may be submitted to UNESCO for mediation, by agreement between the States Parties concerned.
3. If mediation is not undertaken or if there is no settlement by mediation, the provisions relating to the settlement of disputes set out in Part XV of the United Nations Convention on the Law of the Sea apply mutatis mutandis to any dispute between States Parties to this Convention concerning the interpretation or application of this Convention, whether or not they are also Parties to the United Nations Convention on the Law of the Sea.
4. Any procedure chosen by a State Party to this Convention and to the United Nations Convention on the Law of the Sea pursuant to Article 287 of the latter shall apply to the settlement of disputes under this Article, unless that State Party, when ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, chooses another procedure pursuant to Article 287 for the purpose of the settlement of disputes arising out of this Convention.
5. A State Party to this Convention which is not a Party to the United Nations Convention on the Law of the Sea, when ratifying, accepting, approving or acceding to this Convention or at any time thereafter shall be free to choose, by means of a written declaration, one or more of the means set out in Article 287, paragraph 1, of the United Nations Convention on the Law of the Sea for the purpose of settlement of disputes under this Article. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is party, which is not covered by a declaration in force. For the purpose of conciliation and arbitration, in accordance with Annexes V and VII of the United Nations Convention on the Law of the Sea, such State shall be entitled to nominate conciliators and arbitrators to be included in the lists referred to in Annex V, Article 2, and Annex VII, Article 2, for the settlement of disputes arising out of this Convention.

#### **Article 26 – Ratification, acceptance, approval or accession**

1. This Convention shall be subject to ratification, acceptance or approval by Member States of UNESCO.

2. This Convention shall be subject to accession:

(a) by States that are not members of UNESCO but are members of the United Nations or of a specialized agency within the United Nations system or of the International Atomic Energy Agency, as well as by States Parties to the Statute of the International Court of Justice and any other State invited to accede to this Convention by the General Conference of UNESCO;

(b) by territories which enjoy full internal self-government, recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Director-General.

#### **Article 27 – Entry into force**

This Convention shall enter into force three months after the date of the deposit of the twentieth instrument referred to in Article 26, but solely with respect to the twenty States or territories that have so deposited their instruments. It shall enter into force for each other State or territory three months after the date on which that State or territory has deposited its instrument.

#### **Article 28 – Declaration as to inland waters**

When ratifying, accepting, approving or acceding to this Convention or at any time thereafter, any State or territory may declare that the Rules shall apply to inland waters not of a maritime character.

#### **Article 29 – Limitations to geographical scope**

At the time of ratifying, accepting, approving or acceding to this Convention, a State or territory may make a declaration to the depositary that this Convention shall not be applicable to specific parts of its territory, internal waters, archipelagic waters or territorial sea, and shall identify therein the reasons for such declaration. Such State shall, to the extent practicable and as quickly as possible, promote conditions under which this Convention will apply to the areas specified in its declaration, and to that end shall also withdraw its declaration in whole or in part as soon as that has been achieved.

#### **Article 30 – Reservations**

With the exception of Article 29, no reservations may be made to this Convention.

**Article 31 – Amendments**

1. A State Party may, by written communication addressed to the Director-General, propose amendments to this Convention. The Director-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Director-General shall present such proposal to the next Meeting of States Parties for discussion and possible adoption.
2. Amendments shall be adopted by a two-thirds majority of States Parties present and voting.
3. Once adopted, amendments to this Convention shall be subject to ratification, acceptance, approval or accession by the States Parties.
4. Amendments shall enter into force, but solely with respect to the States Parties that have ratified, accepted, approved or acceded to them, three months after the deposit of the instruments referred to in paragraph 3 of this Article by two thirds of the States Parties. Thereafter, for each State or territory that ratifies, accepts, approves or accedes to it, the amendment shall enter into force three months after the date of deposit by that Party of its instrument of ratification, acceptance, approval or accession.
5. A State or territory which becomes a Party to this Convention after the entry into force of amendments in conformity with paragraph 4 of this Article shall, failing an expression of different intention by that State or territory, be considered:
  - (a) as a Party to this Convention as so amended; and
  - (b) as a Party to the unamended Convention in relation to any State Party not bound by the amendment.

**Article 32 – Denunciation**

1. A State Party may, by written notification addressed to the Director-General, denounce this Convention.
2. The denunciation shall take effect twelve months after the date of receipt of the notification, unless the notification specifies a later date.
3. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Convention to which it would be subject under international law independently of this Convention.

### **Article 33 – The Rules**

The Rules annexed to this Convention form an integral part of it and, unless expressly provided otherwise, a reference to this Convention includes a reference to the Rules.

### **Article 34 – Registration with the United Nations**

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General.

### **Article 35 – Authoritative texts**

This Convention has been drawn up in Arabic, Chinese, English, French, Russian and Spanish, the six texts being equally authoritative.

## **ANNEX**

### **Rules concerning activities directed at underwater cultural heritage**

#### **I. General principles**

**Rule 1.** The protection of underwater cultural heritage through in situ preservation shall be considered as the first option. Accordingly, activities directed at underwater cultural heritage shall be authorized in a manner consistent with the protection of that heritage, and subject to that requirement may be authorized for the purpose of making a significant contribution to protection or knowledge or enhancement of underwater cultural heritage.

**Rule 2.** The commercial exploitation of underwater cultural heritage for trade or speculation or its irretrievable dispersal is fundamentally incompatible with the protection and proper management of underwater cultural heritage. Underwater cultural heritage shall not be traded, sold, bought or bartered as commercial goods.

This Rule cannot be interpreted as preventing:

- (a) the provision of professional archaeological services or necessary services incidental thereto whose nature and purpose are in full conformity with this Convention and are subject to the authorization of the competent authorities;
- (b) the deposition of underwater cultural heritage, recovered in the course of a research project in conformity with this Convention, provided such deposition does not prejudice

the scientific or cultural interest or integrity of the recovered material or result in its irretrievable dispersal; is in accordance with the provisions of Rules 33 and 34; and is subject to the authorization of the competent authorities.

**Rule 3.** Activities directed at underwater cultural heritage shall not adversely affect the underwater cultural heritage more than is necessary for the objectives of the project.

**Rule 4.** Activities directed at underwater cultural heritage must use nondestructive techniques and survey methods in preference to recovery of objects. If excavation or recovery is necessary for the purpose of scientific studies or for the ultimate protection of the underwater cultural heritage, the methods and techniques used must be as non-destructive as possible and contribute to the preservation of the remains.

**Rule 5.** Activities directed at underwater cultural heritage shall avoid the unnecessary disturbance of human remains or venerated sites.

**Rule 6.** Activities directed at underwater cultural heritage shall be strictly regulated to ensure proper recording of cultural, historical and archaeological information.

**Rule 7.** Public access to in situ underwater cultural heritage shall be promoted, except where such access is incompatible with protection and management.

**Rule 8.** International cooperation in the conduct of activities directed at underwater cultural heritage shall be encouraged in order to further the effective exchange or use of archaeologists and other relevant professionals.

## **II. Project design**

**Rule 9.** Prior to any activity directed at underwater cultural heritage, a project design for the activity shall be developed and submitted to the competent authorities for authorization and appropriate peer review.

**Rule 10.** The project design shall include:

- (a) an evaluation of previous or preliminary studies;
- (b) the project statement and objectives;
- (c) the methodology to be used and the techniques to be employed;
- (d) the anticipated funding;
- (e) an expected timetable for completion of the project;



- (f) the composition of the team and the qualifications, responsibilities and experience of each team member;
- (g) plans for post-fieldwork analysis and other activities;
- (h) a conservation programme for artefacts and the site in close cooperation with the competent authorities;
- (i) a site management and maintenance policy for the whole duration of the project;
- (j) a documentation programme;
- (k) a safety policy;
- (l) an environmental policy;
- (m) arrangements for collaboration with museums and other institutions, in particular scientific institutions;
- (n) report preparation;
- (o) deposition of archives, including underwater cultural heritage removed; and
- (p) a programme for publication.

**Rule 11.** Activities directed at underwater cultural heritage shall be carried out in accordance with the project design approved by the competent authorities.

**Rule 12.** Where unexpected discoveries are made or circumstances change, the project design shall be reviewed and amended with the approval of the competent authorities.

**Rule 13.** In cases of urgency or chance discoveries, activities directed at the underwater cultural heritage, including conservation measures or activities for a period of short duration, in particular site stabilization, may be authorized in the absence of a project design in order to protect the underwater cultural heritage.

### **III. Preliminary work**

**Rule 14.** The preliminary work referred to in Rule 10 (a) shall include an assessment that evaluates the significance and vulnerability of the underwater cultural heritage and the surrounding natural environment to damage by the proposed project, and the potential to obtain data that would meet the project objectives.

**Rule 15.** The assessment shall also include background studies of available historical and archaeological evidence, the archaeological and environmental characteristics of the site, and the consequences of any potential intrusion for the long-term stability of the underwater cultural heritage affected by the activities.

#### **IV. Project objective, methodology and techniques**

**Rule 16.** The methodology shall comply with the project objectives, and the techniques employed shall be as non-intrusive as possible.

#### **V. Funding**

**Rule 17.** Except in cases of emergency to protect underwater cultural heritage, an adequate funding base shall be assured in advance of any activity, sufficient to complete all stages of the project design, including conservation, documentation and curation of recovered artefacts, and report preparation and dissemination.

**Rule 18.** The project design shall demonstrate an ability, such as by securing a bond, to fund the project through to completion.

**Rule 19.** The project design shall include a contingency plan that will ensure conservation of underwater cultural heritage and supporting documentation in the event of any interruption of anticipated funding.

#### **VI. Project duration – timetable**

**Rule 20.** An adequate timetable shall be developed to assure in advance of any activity directed at underwater cultural heritage the completion of all stages of the project design, including conservation, documentation and curation of recovered underwater cultural heritage, as well as report preparation and dissemination.

**Rule 21.** The project design shall include a contingency plan that will ensure conservation of underwater cultural heritage and supporting documentation in the event of any interruption or termination of the project.

#### **VII. Competence and qualifications**

**Rule 22.** Activities directed at underwater cultural heritage shall only be undertaken under the direction and control of, and in the regular presence of, a qualified underwater archaeologist with scientific competence appropriate to the project.

**Rule 23.** All persons on the project team shall be qualified and have demonstrated competence appropriate to their roles in the project.

## **VIII. Conservation and site management**

**Rule 24.** The conservation programme shall provide for the treatment of the archaeological remains during the activities directed at underwater cultural heritage, during transit and in the long term. Conservation shall be carried out in accordance with current professional standards.

**Rule 25.** The site management programme shall provide for the protection and management in situ of underwater cultural heritage, in the course of and upon termination of fieldwork. The programme shall include public information, reasonable provision for site stabilization, monitoring, and protection against interference.

## **IX. Documentation**

**Rule 26.** The documentation programme shall set out thorough documentation including a progress report of activities directed at underwater cultural heritage, in accordance with current professional standards of archaeological documentation.

**Rule 27.** Documentation shall include, at a minimum, a comprehensive record of the site, including the provenance of underwater cultural heritage moved or removed in the course of the activities directed at underwater cultural heritage, field notes, plans, drawings, sections, and photographs or recording in other media.

## **X. Safety**

**Rule 28.** A safety policy shall be prepared that is adequate to ensure the safety and health of the project team and third parties and that is in conformity with any applicable statutory and professional requirements.

## **XI. Environment**

**Rule 29.** An environmental policy shall be prepared that is adequate to ensure that the seabed and marine life are not unduly disturbed.

## **XII. Reporting**

**Rule 30.** Interim and final reports shall be made available according to the timetable set out in the project design, and deposited in relevant public records.

**Rule 31.** Reports shall include:

- (a) an account of the objectives;
- (b) an account of the methods and techniques employed;

- (c) an account of the results achieved;
- (d) basic graphic and photographic documentation on all phases of the activity;
- (e) recommendations concerning conservation and curation of the site and of any underwater cultural heritage removed; and
- (f) recommendations for future activities.

### **XIII. Curation of project archives**

**Rule 32.** Arrangements for curation of the project archives shall be agreed to before any activity commences, and shall be set out in the project design.

**Rule 33.** The project archives, including any underwater cultural heritage removed and a copy of all supporting documentation shall, as far as possible, be kept together and intact as a collection in a manner that is available for professional and public access as well as for the curation of the archives. This should be done as rapidly as possible and in any case not later than ten years from the completion of the project, in so far as may be compatible with conservation of the underwater cultural heritage.

**Rule 34.** The project archives shall be managed according to international professional standards, and subject to the authorization of the competent authorities.

### **XIV. Dissemination**

**Rule 35.** Projects shall provide for public education and popular presentation of the project results where appropriate.

**Rule 36.** A final synthesis of a project shall be:

- (a) made public as soon as possible, having regard to the complexity of the project and the confidential or sensitive nature of the information; and
- (b) deposited in relevant public records.

Done in Paris this 6th day of November 2001 in two authentic copies bearing the signature of the President of the thirty-first session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization and certified true copies of which shall be delivered to all the States and territories referred to in Article 26 as well as to the United Nations.

**Depositary :**

UNESCO

**Entry into force :**

In accordance with its Article 27, this Convention shall enter into force on 2 January 2009 for those States that have deposited their respective instruments of ratification, acceptance, approval or accession on or before 2 October 2008. It shall enter into force for any other State three months after the deposit by that State of its instrument of ratification, acceptance, approval or accession.

(UNESCO 2001)

**STATE PARTIES TO THE CONVENTION AS OF 2011**

	<b>States</b>	<b>Date of deposit of instrument</b>
1	Albania	19/03/2009
2	Argentina	19/07/2010
3	Barbados	2/10/2008
4	Benin	4/8/2011
5	Bosnia and Herzegovina	22/04/2009
6	Bulgaria	6/10/2003
7	Cambodia	24/11/2007
8	Croatia	1/12/2004
9	Cuba	26/05/2008
10	Democratic Republic of the Congo	28/09/2010
11	Ecuador	1/12/2006
12	Gabon	1/2/2010
13	Grenada	15/01/2009
14	Haiti	9/11/2009
15	Honduras	23/07/2010
16	Iran (Islamic Republic of)	16/06/2009
17	Italy	8/1/2010
18	Jamaica	9/8/2011
19	Jordan	2/12/2009
20	Lebanon	8/1/2007
21	Libya	23/06/2005
22	Lithuania	12/6/2006
23	Mexico	5/7/2006
24	Montenegro	18/07/2008
25	Morocco	20/06/2011
26	Namibia	9/3/2011
27	Nigeria	21/10/2005
28	Panama	20/05/2003

29	Paraguay	7/9/2006
30	Portugal	21/09/2006
31	Romania	31/07/2007
32	Saint Kitts and Nevis	3/12/2009
33	Saint Lucia	1/2/2007
34	Saint Vincent and the Grenadines	8/11/2010
35	Slovakia	11/3/2009
36	Slovenia	18/09/2008
37	Spain	6/6/2005
38	Trinidad and Tobago	27/07/2010
39	Tunisia	15/01/2009
40	Ukraine	27/12/2006

(UNESCO 2011e)

**APPENDIX C**

**SAMPLE MARITIME HERITAGE QUESTIONNAIRE**

## Maritime Heritage Questionnaire

### Introduction & Organizational Information

#### INTRODUCTION

This survey is comprised of 30 questions. Once it is initiated, you may go back to a previous page or forward to the next one to amend responses. Following submission, however, no further changes are possible.

Please respond as a representative of your organization or, where applicable, the maritime heritage unit within your larger organization. Responses may be cited in the published study by organization or by category (e.g. federal agencies). No personally identifiable information will be collected or published. Completed questionnaires will be added as appendices to the overall study.

An answer is requested for all asterisked questions.

Thank you kindly for your valuable input and time.

**\* 1. Name of organization or organizational unit that focuses on maritime heritage:**

**\* 2. Would you like to receive a copy of the Oxford Handbook of Maritime Archaeology in appreciation of your organization taking the time to complete this survey? If yes, it will be mailed to the address provided below upon publication (expected June 2011).**

Yes

No

**\* 3. Please provide contact information (address, phone number, and e-mail) for your organization.**

**\* 4. Following completion of this survey, may your organization be contacted via phone or e-mail during the course of this study for clarification purposes and any follow-up questions?**

Yes.

No.



## Maritime Heritage Questionnaire

**\* 5. Which of these categories would best describe your organization or unit?**

- Federal Agency
- State Agency
- Local Agency
- Cultural Resource Management Firm OR Firm with Cultural Resource Management Division
- Non-Profit Research Institution
- University
- Museum
- Avocational Volunteer Group

**\* 6. Briefly describe your organization's mission and or scope.**

**\* 7. Briefly describe your organization's history.**

## Maritime Heritage Questionnaire

### Supporting Data

#### \* 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Contractors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interns	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Volunteers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional Information / Clarifications:

#### \* 9. Institutional member levels, if applicable:

- N/A
- 0-10
- 11-50
- 51-100
- 101-250
- 251-500
- 501-1000
- 1000+

## Maritime Heritage Questionnaire

**\* 10. What kind of specialists are employed by your organization? Please check all that apply.**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Historians
- Archivists
- Architects
- Education / Outreach Specialists
- Administration / Support Staff
- Other

Additional Information / Clarifications:

**\* 11. Do you foresee any adjustments to your staffing levels in the near future?**

- Expect to see moderate to rapid growth in staffing levels.
- Expect to see gradual growth in staffing levels.
- Expect staffing levels to remain stable.
- Expect to see gradual decline in staffing levels.
- Expect to see moderate to rapid decline in staffing levels.

**\* 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

- Many more qualified candidates than available positions.
- More qualified candidates than available positions.
- Even distribution of qualified candidates and available positions.
- More positions than qualified candidates.
- Many more positions than qualified candidates.

**Maritime Heritage Questionnaire**

**\* 13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
State Funds / Grants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Affiliated Foundation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
External Foundation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Private Contracts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public Donations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Individual / Member Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional Information / Clarifications:

**\* 14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	<input type="checkbox"/>	<input type="checkbox"/>
State Funds / Grants	<input type="checkbox"/>	<input type="checkbox"/>
Affiliated Foundation	<input type="checkbox"/>	<input type="checkbox"/>
External Foundation	<input type="checkbox"/>	<input type="checkbox"/>
Private Contracts	<input type="checkbox"/>	<input type="checkbox"/>
Public Donations	<input type="checkbox"/>	<input type="checkbox"/>
Individual / Member Support	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

Additional Information / Clarifications:

## Maritime Heritage Questionnaire

### Research & Management Activities

**\* 15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inventory / GIS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Field Surveys	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Field Excavations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Permitting / Compliance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conservation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional Information / Clarifications:

**\* 16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

- Yes, our organization has a conservation facility that meets our needs.
- Yes, our organization has a conservation facility, but it does not fully meet our needs.
- No, our organization does not currently have a conservation facility.

Size of Collection / Additional Information:

**\* 17. Does your organization have a curation facility? Does it meet your institutional needs?**

- Yes, our organization has a curation facility that meets our needs.
- Yes, our organization has a curation facility, but it does not fully meet our needs.
- No, our organization does not currently have a curation facility.

Size of Collection / Additional Information:

## Maritime Heritage Questionnaire

**\* 18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Website Presence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social Media Presence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Print Publications / Newsletters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Digital Publications / Newsletters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Newspaper Articles / Editorials / Blogs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lectures / Presentations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Community Events	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Educational / Training sessions (at your organization)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Educational / Training sessions (on location)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other #1 (please clarify below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other #2 (please clarify below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional Information / Clarifications:

**\* 19. Does your organization maintain a submerged cultural resources database or inventory?**

- Yes  
 No

**Maritime Heritage Questionnaire**

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Independent Researchers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
University/Non-Profit Affiliated Researchers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cultural Resource Management Firms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
State Agencies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Federal Agencies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Foreign Governments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please explain below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Additional Information / Clarifications:

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	<input type="checkbox"/>	<input type="checkbox"/>
University/Non-Profit Organizations	<input type="checkbox"/>	<input type="checkbox"/>
Cultural Resource Management Firms	<input type="checkbox"/>	<input type="checkbox"/>
State Agencies	<input type="checkbox"/>	<input type="checkbox"/>
Federal Agencies	<input type="checkbox"/>	<input type="checkbox"/>
Foreign Governments	<input type="checkbox"/>	<input type="checkbox"/>
Other (please explain below)	<input type="checkbox"/>	<input type="checkbox"/>

Additional Information / Clarifications:

## Maritime Heritage Questionnaire

### \*22. Does your organization regularly put out popular or scholarly publications?

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scholarly Print Publication	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Popular Digital Publication	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scholarly Digital Publication	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Name of Publication(s) / Additional Information:



## Maritime Heritage Questionnaire

### Legislative & Policy Issues

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

**\*24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

No

**\*25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

No

If yes, what issues do the initiatives aim to address?

**\*26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

No

If yes, which laws or regulations?

## Maritime Heritage Questionnaire

**\*27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**



## Maritime Heritage Questionnaire

### Accomplishments & Challenges

**\*28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

**\*29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

**\*30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

- Positive
- Unclear / No Change
- Negative

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

**APPENDIX D**

**LIST OF MARITIME HERITAGE QUESTIONNAIRE RESPONDENTS**

**Federal Agencies**

- Bureau of Ocean Energy Management, Gulf of Mexico OCS Region
- Bureau of Ocean Energy Management, Pacific OCS Region
- Department of Defense, Joint POW/MIA Accounting Command (JPAC), Central Identification Laboratory.
- Department of the Navy, Naval History and Heritage Command, Underwater Archaeology Branch,
- National Oceanic and Atmospheric Administration, National Marine Protected Areas Center
- National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Maritime Heritage Program
- National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Pacific Islands Region
- National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Monitor National Marine Sanctuary
- National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Papahānaumokuākea Marine National Monument
- National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Stellwagen Bank Sanctuary
- National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Thunder Bay National Marine Sanctuary
- United States Department of Transportation, Maritime Administration
- United States National Park Service, Archaeology Program
- United States National Park Service, Submerged Resources Center

**State Agencies**

- Alabama, Alabama Historical Commission
- Alaska, Alaska Office of History and Archaeology
- California, California State Parks, Department of Parks and Recreation
- Florida, Florida Division of Historical Resources, Bureau of Archaeological Research
- Maryland, Maryland Historical Trust, Maryland Maritime Archaeology Program
- Massachusetts, Massachusetts Board of Underwater Archaeological Resources
- Michigan, Michigan Department of Natural Resources
- Minnesota, Minnesota Office of the State Archaeologist
- New York, Office of Parks, Recreation & Historic Preservation, Historic Preservation Field Services Bureau
- Rhode Island, Rhode Island Historical Preservation and Heritage Commission
- Texas, Texas Historical Commission
- Wisconsin, Wisconsin Historical Society, Maritime Preservation

**Universities**

- Clemson University, Warren Lasch Conservation Center
- Coastal Carolina University, Center for Archaeology and Anthropology
- East Carolina University, Program in Maritime Studies
- Florida Public Archaeology Network
- Indiana University of Pennsylvania, Department of Anthropology
- Indiana University, Office of Underwater Science
- Luther College, Department of Classics
- Texas A&M University, Center for Maritime Archaeology and Conservation
- Texas A&M University, Department of Anthropology, Nautical Archaeology Program
- The George Washington University, Capitol Archaeological Institute
- University of Connecticut, Avery Point, Maritime Studies Program
- University of Maine, School of Marine Sciences
- University of Miami, Rosenstiel School of Marine & Atmospheric Science, Division of Marine Affairs & Policy
- University of South Carolina, South Carolina Institute of Archaeology and Anthropology
- University of West Florida, Anthropology Department

**Museums, Non- Profit Organizations & Societies**

- Advisory Council on Underwater Archaeology
- Cleveland Underwater Explorers, Inc.
- Great Lakes Historical Society
- Great Lakes Shipwreck Preservation Society
- Historic Naval Ships Association
- Institute for International Maritime Research, Inc.
- Institute of Nautical Archaeology
- Lake Champlain Maritime Museum
- Lighthouse Archaeological Maritime Program
- Maritime Archaeological and Historical Society
- Maritime Heritage Minnesota
- Monterey Bay Aquarium Research Institute
- Ocean Exploration Trust
- Promare Inc.
- Rhode Island Marine Archaeology Project
- RPM Nautical Foundation
- Smithsonian's National Museum of American History
- Underwater Archaeological Society of Chicago
- Waitt Institute



**Cultural Resource Management Firms or Firms with a Cultural Resource Management Division**

- Atkins North America, Inc.
- C & C Technologies, Inc. GeoSciences Division
- Dolan Research, Inc.
- Fathom Research, LLC
- Fugro GeoServices, Inc.
- Geoscience Earth & Marine Services, Inc.
- L. A. Landry & Associates, Inc.
- Marine Surveys, LLC
- Mid-Atlantic Technology and Environmental Research, Inc.
- Panamerican Consultants, Inc.
- Plateau Archaeological Investigations, LLC
- R. Christopher Goodwin & Associates, Inc.
- South Eastern Archaeological Services, Inc.
- Southeastern Archaeological Research, Inc.
- SWCA Environmental Consultants, Cultural Resources
- Tesla Offshore, LLC
- Tidewater Atlantic Research, Inc.
- URS Corporation

**APPENDIX E**

**COMPLETED MARITIME HERITAGE QUESTIONNAIRES**

**Federal Agencies**

**Bureau of Ocean Energy Management, Gulf of Mexico OCS Region**


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**5. Which of these categories would best describe your organization or unit?**

Federal Agency

**6. Briefly describe your organization's mission and or scope.**

Oversees oil and gas exploration and development and alternative energy permitting on the federal outer continental shelf, as per the OCS Lands Act.

**7. Briefly describe your organization's history.**

See <http://www.boemre.gov/aboutBOEMRE/>.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors	X				
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications::</i> Staff located in Headquarters and 3 regional offices					

**9. Institutional member levels, if applicable:**

1000+

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- GIS / IT Specialists
- Administration / Support Staff
- Other

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see moderate to rapid growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i> Congressional funding					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications::</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research					
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		[X]			
Permitting / Compliance					X
Conservation					
<i>Additional Information / Clarifications::</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence	X				
Social Media Presence				X	
Print Publications / Newsletters		X			
Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events				X	

Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications::</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms	X		
State Agencies	X		
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations		X
Cultural Resource Management Firms	X	
State Agencies		X
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication				X				
Scholarly Print Publication								X
Popular Digital Publication				X				
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i> Ocean Science								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Major legislative gap in that Section 106 compliance requires location of sites but lack of coverage of other federal laws such as ARPA or ASA on the OCS exposes them to harm from third party actions.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

See above.

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

30 CFR 250

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No Response

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

No Response

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

No Response

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

No Response

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Bureau of Ocean Energy Management, Pacific OCS Region

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### 5. Which of these categories would best describe your organization or unit?

Federal Agency

### 6. Briefly describe your organization's mission and or scope.

BOEMRE is the federal agency responsible for overseeing the safe and environmentally responsible development of energy and mineral resources on the Outer Continental Shelf.

### 7. Briefly describe your organization's history.

I don't know that it could be done briefly. The Bureau was originally formed as the Minerals Management Service in 1982 by then Secretary of the Interior James Watt, and combined portions of the Bureau of Land Management and the U.S. Geological Survey. Last year it was renamed BOEMRE and come October 1 of this year [2011], it will split once again into two bureaus: Bureau of Ocean Energy Management, and Bureau of Safety and Environmental Enforcement.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors	X				
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i> Staff located in Headquarters and 3 regional offices					

\*Amended to reflect organizational unit rather than organization as a whole.

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- GIS / IT Specialists
- Administration / Support Staff
- Other

It's a federal agency with over 700 employees. The historic preservation group makes up only a small portion.

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect to see gradual growth in staffing levels.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

More qualified candidates than available positions.



**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance					X
Conservation	X				
<i>Additional Information / Clarifications:</i> The Bureau's primary efforts are regulatory and permitting, though we fund approximately \$30 million in research annually (though not all related to historic preservation).					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence			X		
Social Media Presence					X
Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs					X
Lectures / Presentations			X		
Community Events					X
Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		x	
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments		X	
Other (please explain below)			X
<i>Additional Information / Clarifications: Access to the databases are extremely limited and evaluated on a case by case basis.</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)	X	
<i>Additional Information / Clarifications:</i> Our databases are developed through our studies program, typically completed under contract by a CRM firm.		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication				X				
Scholarly Print Publication							X	
Popular Digital Publication				X				
Scholarly Digital Publication					X			
<i>Name of Publication(s) / Additional Information:</i> Regarding scholarly publications, these are released as studies are completed and are all available on our website in PDF format.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

The main concern (and legislative gap) is the limited legal protection of underwater cultural heritage on the Outer Continental Shelf.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

We are responsible for developing regulations related to offshore energy and mineral extraction and the protection of underwater cultural heritage through our permitted actions.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

We've been affected by all sorts of recent changes....

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

We're in the process of completing an inventory of submerged sites along the Atlantic and will be updating the Pacific OCS inventory shortly. Recently, the high probability model for archaeological surveys in the Gulf of Mexico was removed, though there seems to be a few problems with this policy.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

There are a number of challenges: limited legal protection of the resource in federal waters; inadequate line spacing in certain areas (GOMR is at 50-m/300-m, Atlantic is 30m/200m, and Pacific is 40m/150m), it should be 30/200 across the board; inadequate staffing.... I could go on for awhile here.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

In the eleven years that I've been working for this agency/bureau, there have been numerous positive steps made toward historic preservation on the OCS. However, there are still a number of issues that need work.

**Department of Defense, Joint POW/MIA Accounting Command (JPAC), Central Identification Laboratory.**

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**5. Which of these categories would best describe your organization or unit?**

Federal Agency

**6. Briefly describe your organization's mission and or scope.**

JPAC's mission is to research, investigate, and recover cases involving unaccounted-for U.S. military and civilian service members who went missing as a result of past hostile conflicts. Our primary focus is to recover and identify the remains of these individuals, as well as related material evidence that may support such an identification. In cases where we cannot successfully recover remains, we hope to resolve questions regarding the ultimate fate and status of these individuals.

**7. Briefly describe your organization's history.**

JPAC was stood up in 2003, as the merger between the U.S. Army Central Identification Laboratory, Hawaii (USACILHI) and the U.S. Pacific Command (PACOM)'s Joint Task Force-Full Accounting. CILHI had a mission of accounting for remains of individuals from all conflicts, and JTF-FA was mandated by congress to concentrate on resolving the fates of service members missing in action, killed in action/body not recovered, or believed to be POW/not returned as a result of the Vietnam War. CILHI was previously CILTHAI (based in Thailand) and before that a part of the U.S. Army Graves Registration Service; and JTF-FA was previously the Joint Casualty Resolution Center (JCRC), ca 1973-1991; and before that the Joint Personnel Recovery Center (JPRC) prior to ca 1973 - both based in Southeast Asia.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors					X
Interns					X
Volunteers					
<i>Additional Information / Clarifications:</i> Within our Laboratory directorate, we employ Research Fellows through the Oak Ridge Institute for Science and Education (ORISE).					

**9. Institutional member levels, if applicable:**

251-500

\*Modified to [N/A] due to federal agency status

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- GIS / IT Specialists
- Historians
- Archivists
- Administration / Support Staff
- Other

Our staff includes Evidence Managers, Forensic Odontologists, DNA Coordinators, Aircrew Life Support Technicians, and Administrative NCOs within our Laboratory. JPAC also employs numerous other specialties, to include: Forensic Imaging Specialists, and Linguists with various language capabilities, Communications Specialists, Explosive Ordnance Disposal Technicians, and Emergency Medical Providers, supply specialists, operational planning specialists, administrative specialists, etc. About half of our command consists of active duty military personnel - Army, Navy, Air Force, and Marines; the remainder are civilian employees, contractors, and research fellows.

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see moderate to rapid growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i> We are a joint command, established under PACOM, funded by the Department of Defense through annual Defense Authorization Acts.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i> We are subject to potential government shutdowns due to Congressional issues with passing funding legislation, and have previously had to make contingency preparations for possible government shutdowns.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance		X			
Conservation		X			
<i>Additional Information / Clarifications:</i> Conservation activities undertaken at JPAC are minimal - our mission is focused on recovering and identifying remains and related non-biological material evidence (apparel items, etc), and not so much on recovering and conserving items of material culture as an end in itself. Where necessary, we do stabilize/desalinate items of evidence. In terms of overall percentages, the majority of our command's field investigation and recovery activities are conducted in terrestrial contexts. We do work with and through federal/regional/foreign historic preservation offices where required.					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

No, our organization does not currently have a conservation facility.

We do have an evidence storage system with adequate security. In rare cases where we do need to set up a conservation treatment regime, we identify and acquire the appropriate resources as necessary.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

In excess of hundreds of cases of evidentiary material, most of which is stored in a compact shelving system. We also have a system for filing and mainting associated records. We have a refrigerated cooler for cases involving soft tissue remains. We have adequate security for these facilities, and a good system for accessioning and deaccessioning evidence. We recently constructed an overflow room onto our lab floor to accomodate more analytical table space, and we have a new, larger facility presently under construction. However, the majority of our collections originates from contexts other than maritime.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence		X			
Print Publications / Newsletters		X			

Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events		X			
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)	X				
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i> [The above may not represent the position of JPAC as a whole]. JPAC maintains a robust Public Information arm, a website and social media presence, and participates in approximately 10 or so annual "Regional Family Updates" in various locations around the country, as well as having a presence at annual conferences and military unit/community reunions. The laboratory maintains a very healthy tempo of presenting scientific research at meetings, as well as encouraging Continuing Education and research on the part of all scientific staff members.					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers		X	
University/Non-Profit Affiliated Researchers		X	
Cultural Resource Management Firms		X	
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i> The public at large or interested researchers cannot access our database upon demand. However, certain interested family members (those designated as Primary Next of Kin, or PNOK) do have a right to information regarding cases involving their family members. Where cases/sites fall under the purview of federal or state agencies or foreign governments, we do coordinate with those agencies/share info where necessary, usually on a case-by-case basis (I am not certain if any such agency has ever requested a comprehensive list of all resources within their borders). We do provide information to some foreign governments, where we are conducting complex sustained work in those			





Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i> JPAC CIL is currently developing an academic publishing capability. I believe there are several drafts in the selection/editing process, and perhaps one or two are in publication - but this is a somewhat recent development. Thus far I don't think there are any maritime-themed items being submitted or considered for publication.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

[These observations do not necessarily reflect the position of JPAC as a whole]. These are general longer-term policy concerns, observed over time: (1) In the past there has been some discussion the policy previously disseminated by the Department of the Air Force, that regarded all of that agency's wreck properties lost before a certain date (ca 1962 or so) to be considered by DAF as formally "abandoned", with the basis for this being an Air Force Regulation. I am not certain if this is still the USAF's present policy stance, but it was in past years. If this is in fact still a current Department of Air Force Policy, then [...] this should be changed to reflect a more realistic standard of responsible cultural resource management, which would not encourage the destruction of potentially historic sites or otherwise sites of potential interest (especially since some believe the Air Force does not have the authority to "abandon" federal property under their custody, and any such "abandonment" almost certainly does not extend to the question of title - vs merely custody - of such property; and if custody of such properties are so ceded, then whose custody would they revert to as a default status - GSA? etc). (2) [There is some uncertainty regarding] the status of some wreck properties associated with "organic Army aviation"... if the site is USAF or a USAF antecedent (USAAF), then in those cases the properties fall under the oversight of the present-day USAF. However, I am not sure that non-USAAF historic Army aviation wreck properties (e.g., an Army artillery spotter aircraft, not necessarily belonging to the USAAF) would fall under this category, or if such a property would still fall under the oversight of the Department of the Army. Also Army watercraft wrecks and other vehicles, such as sunken armored vehicle, etc (such as what lies off the Normandy coastline, in the D-Day invasion corridors). This [area requires further research and clarification]. One danger being, if people are told/assume that all "Air Force and Army Air Force planes" are abandoned, this may also be perceived to incorrectly encompass organic Army (not USAAF) assets. In regard to above items (1) and (2), [it appears] that the broader issue at hand may be one of a need for a consistent policy within the DOD to be presented by that agency. Not an inconsistent policy where one FPO or what have you aggressively protects its properties (DON) while another completely abrogates its authority (DAF) and the policies of a third may or may not be well-defined...and a broader result being inconsistency in how these policies [...] apply to aircraft wrecks and watercraft wrecks. Otherwise, such as in the case of the DAF's policy failure, this can only continue to encourage attempts to sue for title, or gain permission from some enabling DAF office to salvage USAAF sites, and otherwise cause salvors to make assumptions that policies of one branch may apply to other branches, etc, and the net result is that potentially historic sites are damaged or destroyed. A number of recent removals/destruction of potentially historic/greater than 50 years-old USAAF properties by salvors testifies to this problem. (3) Two [...] colleagues just returned from the underwater cultural maritime heritage conference in Manila [...], and I am told that one of the things they discussed there was the lack of an international convention for offering protection to wrecks less than 100 years old (UNESCO conventions evidently only addresses sites 100 years or older) - so based upon this, and the fact that the Second World War was largely one of the defining events of the last 100 years,

particularly in regard to Pacific Island nations that today draw upon WWII tourism and engender a great deal of interest (both good and bad) in WWII-era underwater sites, perhaps there should be an International convention offering protection to underwater sites of potential historic value of less than 100 years of age. (4) [There are still questions] in terms of what is understood to comprise "maritime grave sites" as defined by the U.S government or as defined by international standards, and what U.S. military services or overall situations these categorizations apply to. To date, our agency has actively engaged in the recovery of underwater DON aircraft wreck sites, and Department of the Army watercraft wrecks (but not so much DON watercraft wrecks - with the exception of USS Monitor, in which the recovery objectives were more artifact-driven than remains recovery driven). Generally, [there is greater need for] clarity on the mechanisms for determining what is and is not a designated "maritime grave site", as well as what remains are "recoverable" and what remains are "unrecoverable" according to DOD findings. We recognize that shallow-water naval aircraft wrecks have recovery potential and we have been investigating and recovering these on a case-by-case basis. However, thus far we have not generally pursued DON shipwrecks, as these are often more understood to comprise honorable maritime grave sites for the collective crews. Related to this, one future challenge to JPAC may be to successfully discriminate between situations that are "resource management problems" (a shipwreck for which the objective might be to protect the resource as a final resting place and not necessarily to recover the crew - in which case the protection is not necessarily JPAC's mission but rather the agency under whom custody of the property falls), and those that are "recovery problems" in applying its resources to cases. It seems quite likely that as more third-party groups embark on expeditions to locate previously-unlocated certain vessels etc associated with loss incidents (note the profusion of recent discoveries of "lost submarines"), the DOD will be faced with more questions regarding the status and management of such sites. This is an area that will [be] of continuing research, discussion, and interest at JPAC.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

Not to my knowledge [in my immediate environment].

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

Again, not to my knowledge - although it certainly may have in fact occurred at a level higher than my own. My underwater-specific section has previously been asked by Defense POW/MIA Accounting Office to provide comment on revision of DPMO policies regarding the cases of individuals lost at sea - specifically criteria for initiating investigation or recovery of cases ("Underwater Remains Recovery Operations Associated with Unaccounted-for U.S. Service Personnel), with our intent to maintain adequate flexibility for pursue cases deemed as warranting pursuit by JPAC, and to maintain a consistent standard for both terrestrial and underwater cases. This is a DOD policy guidance document, not legislation.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

We were very pleased to see the passage of the Sunken Military Craft Act (SMCA), thanks to the work of many, particularly those folks at the Naval Historical Center (Barbara Voulgaris especially, and the larger Underwater Archaeology Branch under the leadership of Robert Neyland). We feel that this will generally offer some greater degree of protection to resources, particularly those where there is some (perceived) ambiguity about their status otherwise (such as USAF properties, to help better differentiate between issues of title and custody - although the custody of the property may be in contention if the USAF so abrogates, that does not mean title is an issue) (other areas of interest for us may be certain types of transport watercraft).

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Over the course of the last 15 or so years, JPAC and its predecessors have gone far in developing a program to address underwater wreck sites of interest to our mission. We have hired anthropologists and historians with expertise in underwater archaeology, we have purchased equipment to allow us to conduct quality survey and recovery work, we have instituted internal policies to better guide our activities and evaluate sites, and we have set up a GIS system that specifically looks to address underwater sites. There are a large number of sites worldwide in which our command has an interest. It will continue to be a challenge to research, locate, investigate, and where necessary, conduct excavation on these sites, or otherwise evaluate and eliminate them from our particular consideration. [...] [I]n the field as a whole, we are seeing better coordination and dialogue between various agencies and governments in addressing wreck property issues [(the) recent conference in Manila was but the most recent example of this[]].

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Although the number of sites in which our particular command may have a potential interest can be staggering, we have seen an increase in our funding and personnel staffing, so we are fortunate in that regard. We do now have a system for quantifying such sites in place. I believe we have also done very well at publicizing awareness of our command's particular mission, and in terms of working with interested outside agencies. We (the larger community of maritime heritage folks) need to continue to seek coordinated and consistent policy positions that adequately define and protect properties, encourage site protection through both legislation and public education efforts, and foster international cooperation between interested parties in identifying and addressing concerns with maritime heritage properties. Apart from the above, I think that we will continue to see an increasing frequency of new site discoveries, due to improving detection technologies, and that managing and archiving large amounts of data (such as remote sensing data gathered in the course of surveys, or site documentation data) will continue to be a concern.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

The above comments [...] do not necessarily reflect the views of my managers, the JPAC command in general, or the Department of the Navy, nor do they reflect any sort of official policy position. The above comments are also based upon the limited scope of my own area of activity in the underwater cultural resources spectrum (for instance, I do not typically deal with prehistoric underwater cultural resources, and consequently do not mention it above - although I recognize that this is an area of great significance). Also, I realize that this survey is geared toward "maritime heritage" but I discuss aircraft wreck properties in the sense that some are underwater sites but also that aviation history and all of its historic remnants are somewhat related to its older cousin maritime history. [...] Thank you for extending the open period of this questionnaire until I returned to the office, so that I could offer you some comments (and also my apologies to Stephen M. Workman, of East Carolina University Coastal Resources Management Program, who in 2007 sent around a questionnaire regarding past and future underwater cultural heritage legislation in the U.S., to which I was not able to respond - it is partly because I failed to ultimately respond to his questionnaire that I am making sure I get a response submitted to this one). Thank you for the opportunity to participate, and good luck in your research!

**Department of the Navy, Naval History and Heritage Command, Underwater Archaeology Branch**

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**5. Which of these categories would best describe your organization or unit?**

Federal Agency

**6. Briefly describe your organization's mission and or scope.**

The chief mission of NHHC's Underwater Archaeology Branch is to assist the command with collecting, interpreting, preserving, and disseminating information pertaining to US Navy's maritime history and heritage. For the Underwater Archaeology Branch, this includes the management, investigation, and preservation of US Navy's sunken military craft. The four main functions of the branch include historic preservation policy development and implementation, archaeological research and interpretation, conservation and curation of US Navy's submerged material culture, and educational outreach initiatives.

**7. Briefly describe your organization's history.**

Underwater Archaeology Branch was officially formed in 1996 due to an emerging need to manage and protect the US Navy's sunken military craft and associated contents. This was deemed particularly important as many of these historic and archaeological sites contain human remains, ordnance, and hazardous materials. In addition, many of the sites contain valuable archaeological data pertaining to US Navy history and heritage for which there is otherwise little information or knowledge. An example of one of the first involvements of the US Navy with its submerged cultural resources conducted under professional underwater archaeological standards is CSS Alabama, an American Civil War raider that was lost off the coast of Cherbourg, France, in 1864 and rediscovered in the late 1980s. A joint Franco-American project later materialized in order to assess, document, excavate, and preserve CSS Alabama and associated artifacts.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors		X			
Interns			X		
Volunteers		X			
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Education / Outreach Specialists

Most of the employees in the Underwater Archaeology Branch serve multiple roles within the

organization.

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants					
Affiliated Foundation					
External Foundation	X				
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation		X
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i> The Underwater Archaeology Branch maintains a annual budget for both operations and conservation. The amount of funding for both has fluctuated widely in the past, but has recently stabilized due to reorganization within the Naval History and Heritage Command. However, the Command is required to request funding each year and often has to compete with other DoD agencies for funding. Especially during times of economic instability, the amount of funding available for the branch's operations and conservation functions, as well as travel and training, is largely unreliable. In past years, the command's operation budget was augmented by DoD Legacy funds, which have contributed significant amounts for archaeological surveys and shipwreck/aircraft database management. This, however, has not been an option for Underwater Archaeology Branch for several years.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			

Field Surveys		X			
Field Excavations		X			
Permitting / Compliance			X		
Conservation		X			
<i>Additional Information / Clarifications:</i> Permitting/Compliance:40% Conservation/Curation:20% Field Excavations (includes logistical preparation and report writing):20% Field Surveys (includes logistical preparation and report writing):10% Inventory/GIS: 5% Archival Research: 5%					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

The size of the collection in house is approximately 2200 artifacts and steadily growing. Currently the facilities meet our needs, but could be improved and need to be expanded to accommodate the growing collection.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.

As mentioned above, the collection has a rapid growth rate and needs to be expanded. In addition, the facility's HVAC capabilities are below professional standards.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence		X			
Social Media Presence			X		
Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations		X			
Community Events		X			
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i> Our organization sees educational outreach as one of its main components, and we regularly educate the public through tours of the branch's laboratory, delivering presentations at maritime events, speaking to high school students on the importance of submerged cultural heritage, and involving undergraduate and graduate students					



in our operations as interns. We also deliver presentations at professional conferences, publish popular and scholarly articles, provide an informative website, and give interviews to radio shows and documentaries.

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations	X	
Cultural Resource Management Firms		X
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		X
<i>Additional Information / Clarifications:</i> Data is infrequently shared with other federal agencies such as NOAA, NPS, and BOEMRE upon request. There have not been any recent efforts at collaboration regarding the development of the US Navy's submerged cultural resources database, though dialogue among these federal agencies regarding partnership has been initiated in the recent past.		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication					X			
Scholarly Print Publication						X		
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i> Examples include ICOM Metals Conference Proceedings, Naval History Proceedings, ACUA/SHA Proceedings, MAHS Newsletters								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

A main concern is the protection of sunken military craft from unauthorized disturbance. Because there are over 17,000 US Navy sunken ships and aircraft dispersed globally, there is tremendous difficulty maintaining an in situ preservation policy for all sunken craft. Cases of unauthorized disturbance surface frequently, and, although the Sunken Military Craft Act has been in effect for 6 years along with a number of historic preservation and government property laws, management of such a large number of scattered resources is challenging. This is due, in part, to a lack of education from the general public, but also due to the lack of teeth from the current preservation laws. The implementing regulations for the Sunken Military Craft Act, which is capable of imposing heavy fines and putting vessels in rem, is expected to have some effect on the current status of looting with regard to sunken military craft. Underwater Archaeology Branch is concerned about the current views placed upon sunken historic aircraft, which are nominally protected by historic preservation laws and section 106 and section 402 review processes, but are rarely treated as archaeological resources. There is also a concern about the unequal treatment of submerged cultural resources among the states, which have policies ranging from complete protection to general indifference.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

Our organization is currently involved in the drafting of the Sunken Military Craft Act implementing regulations. We are also involved in drafting the US Navy's curation policies and have collaborated with the command's other branches to develop best practices for curation and inventory. In addition, the branch is involved in an Interagency Working Group for the protection of submerged cultural resources and provides advice and input on various legislative initiatives, a recent example being the R.M.S. Titanic Maritime Memorial Preservation Act of 2009--a bill to amend the R.M.S. Titanic Memorial Act of 1986 to implement the International Agreement Concerning the Shipwrecked Vessel RMS Titanic. In addition, the branch has commented on the UNESCO Convention on the Protection of the Underwater Cultural Heritage and has supported the Annex to the Convention regarding standards of underwater archaeological research.

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

The Sunken Military Craft Act and regulations pertaining to the U.S. Navy's current permitting program for invasive archaeological investigation of sunken military craft (32 CFR 4 Part 767: Application Guidelines for Archeological Research Permits on Ship and Aircraft Wrecks Under the Jurisdiction of the Department of the Navy)

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

The implementing regulations of the Sunken Military Craft Act are expected to greatly affect our organization as the required standards for archaeological research have been improved as well as the capability to take action against entities which disturb US Navy sunken military craft without permission.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The drafting of the Sunken Military Craft Act implementing regulations is considered a significant accomplishment for the branch. The MOU for the long-term curation of HL Hunley and associated artifacts, among NHHHC, Clemson University, and South Carolina Hunley Commission, is another accomplishment which assures proper care of a significant cultural resource. In commemoration of the War of 1812, and to learn more of the little-known US Navy gunboats at the turn of the 19th century, Underwater Archaeology Branch is placing emphasis on the excavation, documentation, and conservation of USS Scorpion, the flagship of Commodore Joshua Barney. A survey will be conducted on Civil War vessel USS Cumberland in June 2011, which is expected to provide detailed information on the preservation of the site as well as possible construction features of the vessel. The branch will continue to push the implementing regulations of the Sunken Military Craft Act until they have been reviewed by all involved parties as well as the general public.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Greatest challenges include low staffing levels, unreliable funding, and a lack of consensus within the Command on the treatment and preservation of US Navy's submerged cultural resources. Other challenges include illicit recovery of submerged material culture, common occurrences of auctioned artifacts belonging to US Navy, and somewhat inadequate curation facilities. More emphasis should be placed on historic preservation policy as it pertains to sunken ships and aircraft. More funding should be made available for historic preservation and archaeological research--a priority should be placed on the nation's submerged cultural resources. In addition, a major challenge is the education of the general public, especially divers and entities that work on lakes, rivers, seas, and oceans of the world. By educating the public on the importance of preserving submerged cultural heritage, illicit activities can be dramatically decreased.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

This survey is very comprehensive and from the perspective of a federal underwater archaeologist, has the potential to be an important contribution into the study of how our nation preserves its submerged cultural resources.

## National Oceanic and Atmospheric Administration, National Marine Protected Areas Center

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### 5. Which of these categories would best describe your organization or unit?

Federal Agency

### 6. Briefly describe your organization's mission and or scope.

The MPA Center's mission is to facilitate the effective use of science, technology, training, and information in the planning, management, and evaluation of the nation's system of marine protected areas. The National MPA Center works in partnership with federal, state, tribal, and local governments, tribes, and stakeholders to develop and implement a science-based, comprehensive national system of MPAs. These collaborative efforts are intended to ensure more efficient, effective use of MPAs now and in the future to conserve and sustain the nation's vital marine resources.

### 7. Briefly describe your organization's history.

The National MPA Center was established in 2000, soon after Executive Order 13158 went into effect. The U.S. Department of Commerce and the U.S. Department of the Interior implement the Executive Order through the National MPA Center. The MPA Center is located within the National Oceanic and Atmospheric Administration (NOAA), an agency of the Department of Commerce, and is a division of NOAA's Office of Ocean and Coastal Resource Management. The National MPA Center has three goals. These are derived from the Executive Order and the NOAA Strategic Plan. 1. Build and maintain the National System of MPAs 2. Improve MPA stewardship and effectiveness 3. Facilitate international, national, and regional coordination of MPA activities. To carry out these goals, the MPA Center is working to: \* Implement the framework for the national system of MPAs, \* support the MPA Federal Advisory Committee, \* manage national, regional, and international MPA coordination, \* conduct outreach and education, \* consult with federal agencies, state agencies, tribes, Fishery Management Councils, and others, \* maintain the U.S. MPA website (mpa.gov), and \* collect data for the marine protected areas inventory, defacto MPAs, ocean uses, and other information necessary to inform the National System of MPAs and other coastal and marine spatial planning needs.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors				X	
Interns		X			
Volunteers	X				
<i>Additional Information / Clarifications:</i> *Clarification removed due to the presence of personal information.					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Cultural Resource Managers

- GIS / IT Specialists
- Education / Outreach Specialists
- Administration / Support Staff

[There is only one] cultural resource specialist. The MPA Center has 3 marine biologists, 1 trainer, 1 communications coordinator, 1 program analyst, 3 GIS specialists, 3 interns/fellows, 1 webmaster, 1 administrative assistant, and the Acting Director.

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i> The MPA Center receives an annual Congressional appropriation.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i> Not sure how reliability would be categorized. The Center received an increase for FY10, but a 1/3 decrease for FY11. It varies from one year to the next. The Center is not likely to be eliminated, so funding is reliable in that sense, but our budget is very small, and a 1/3 decrease is significant.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research	X				
Inventory / GIS		X			

Field Surveys	X				
Field Excavations	X				
Permitting / Compliance	X				
Conservation	X				
<i>Additional Information / Clarifications:</i> The Center does not create new MPAs or change existing management authority. We also do not conduct field work. Inventory/GIS comprises a significant portion of the Center's work, but cultural resources are only a component of the MPA Inventory and GIS work.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.  
Not needed; we do not conduct activities that require one.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.  
Not needed; we do not conduct activities that require one.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence		X			
Print Publications / Newsletters			X		
Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations		X			
Community Events			X		
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i> Outreach is of great importance to the Center's mandate. I cannot positively say that the effectiveness of our initiatives always correlates to importance. MPAs are controversial, and misconceptions exist despite our best efforts.					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public	X		
Independent Researchers	X		
University/Non-Profit Affiliated Researchers	X		
Cultural Resource Management Firms	X		
State Agencies	X		
Federal Agencies	X		
Foreign Governments	X		
Other (please explain below)			
<i>Additional Information / Clarifications:</i> The MPA Inventory contains all the nation's MPAs, and is readily available on mpa.gov. It does not yet contain information on all individual resources within each MPA.			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms		
State Agencies	X	
Federal Agencies	X	
Foreign Governments		
Other (please explain below)		
<i>Additional Information / Clarifications:</i> Since the Center does not create new MPAs or change existing management authority, the MPAs in the Inventory represents data gathered from a variety of sources.		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication							X	
Popular Digital Publication		X		X				
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

The Center works to incorporate existing MPAs into the National MPA System -- federal, tribal, state, local. We are familiar with policy concerns and legislative gaps that affect MPAs, but are not in a position to appropriately influence policy. We partner with agencies at all these levels to help improve the effectiveness of their efforts.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Indirectly: I sometimes have opportunities to provide input on official comments or articles that NOAA General Council prepares.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Not directly: the Center works to incorporate existing MPAs into the National MPA System. We have to be aware of recent changes that affect MPAs, but the Center is not affected.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

I co-chair the Cultural Heritage Resources Working Group (CHRWG) under the MPA Federal Advisory Committee (FAC), which provides expertise and recommendations to the full Committee on marine cultural heritage resources for the development of the National MPA System. The CHRWG has developed a vision to serve as the guiding principle behind the group's products and accomplishments, which include recommendations for changes to the Framework for the National System of Marine Protected Areas of the United States (2008) to accommodate the expanding scope of cultural heritage resources (which the group is also recommending). For example, the Framework establishes criteria for cultural heritage MPAs to join the national system based on standards for eligibility to the National Register of Historic Places (NRHP). The working group has expanded the cultural heritage criterion to include: 1) National Register of Historic Places; 2) Tribal and Indigenous Designations; and 3) Other Cultural Landscapes. The working group is writing a white paper elucidating an expanded scope of cultural heritage resources, as well as the importance of integrating cultural and natural resource management within the national system. The concepts of integrated management and a cultural landscape approach are not new in the field of cultural resource management. Learning how to put these concepts into practice, especially in a manner that incorporates multiple voices and stories, is the challenge. The ongoing collaboration between the MPA Center, the working group, MPA management agencies, and other partners, will ensure that these inclusive principles and best practices guide the development of the national system, for the maximum benefit of the nation's critical marine habitat and resources.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**



We are anticipating a 1/3 cut to the Center's budget for FY11, and possibly FY12. We are not anticipating staff reductions, but a reduced capacity to conduct on-site outreach, training, and coordination efforts. An additional cultural resource specialist would be very helpful, but is not likely to happen. The field of maritime heritage preservation as a whole continues to face the challenge of public awareness and understanding. The Center and the CHRWG hope to contribute on this front by helping managers realize a more comprehensive management approach, in which cultural and natural resources are managed in a more integrated manner, and multiple heritage perspectives are incorporated. The Center and the MPA FAC are grappling with such issues as Coastal and Marine Spatial Planning, resilient coastal communities, and the land/sea interface, in addition to marine cultural resource management. We hope that we are all able to shape a sustainable future of ocean management. Shipwrecks are an important element in this, and can attain greater recognition in an altered management context that focuses on relationships between people and the environment.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries,  
Maritime Heritage Program**

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**5. Which of these categories would best describe your organization or unit?**

Federal Agency

**6. Briefly describe your organization's mission and or scope.**

MHP is responsible for the management, protection and evaluation of maritime cultural resources in the 14 sanctuaries and sites in the National Marine Sanctuary System. The sanctuaries are on all coasts of the US, including the Great Lakes and Hawaii, and also include American Samoa.

**7. Briefly describe your organization's history.**

MHPO was established by the Director of the Office of National Marine Sanctuaries more than a decade ago. It has steadily grown from a small office of a few staff to a nationwide program with maritime heritage coordinators on each coast and in the Pacific, and two maritime culture focused sanctuaries at Monitor NMS and Thunder Bay NMS. The staff includes historians and archaeologists. MHP has just completed a strategic and tactical plan which takes it through 2013.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors				X	
Interns		X			
Volunteers					X
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Historians
- Education / Outreach Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations	X				
Permitting / Compliance		X			
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility, but it does not fully meet our needs. Major collection is from USS Monitor in a state of the art facility whose only lack is funding. Other collections are very small as our general philosophy and practice is in situ preservation

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence			X		
Print Publications / Newsletters		X			
Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs	X				
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)	X				
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies	X	
Federal Agencies	X	
Foreign Governments	X	
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication					X			
Scholarly Print Publication							X	
Popular Digital Publication					X			
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Our major challenges are adequate funding to continue inventory and assessment, and the need to also expand the sanctuary system to incorporate and protect significant resources within a sanctuary.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

Expansion of existing sanctuaries and the protection and management of RMS Titanic

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Abandoned Shipwreck Act, and various regulations in the CFR

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

1. Ongoing surveys of various sites have located new shipwrecks, and some have been listed on the National Register. Major work has been accomplished in Hawaii, Michigan, Massachusetts and North Carolina. 2. A cooperative effort with the National Park Service and Woods Hole is mapping Titanic and establishing a new approach to the site in accord with the UNESCO convention. 3. We executed a cooperative agreement with Spain on UCH and shared research and field projects. 4. We have adopted and are working on a major maritime cultural landscape initiative in the NMS system. 5. Our outreach has included significant media stories including a major discovery, the whaler Two Brothers. 6. Educational partnerships have included a significant, nationally advertised program with underprivileged youth through SONY and Intel. 7. We have inaugurated a professional publication series that will include the final site report for USS Monitor. The major advances in the field overall have been continued discoveries and some landmark excavations as well as publications.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Government funding cuts at the federal and state level, ongoing public and media sympathy for and coverage of treasure hunters, trawling.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Negative

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

A great concern is a lack of coordinated action and collaboration among many groups. We are working to address this at the federal level with a reestablished federal agency working group on shipwrecks.

**National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries,  
Pacific Islands Region**

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**5. Which of these categories would best describe your organization or unit?**

Federal Agency

**6. Briefly describe your organization's mission and or scope.**

The discovery, assessment, and preservation of the underwater cultural heritage within national marine sanctuaries

**7. Briefly describe your organization's history.**

Initiated in 2002 by the office of National Marine Sanctuaries (Maritime Heritage Program)

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors			X		
Interns			X		
Volunteers		X			
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

0-10

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Cultural Resource Managers
- Historians
- Education / Outreach Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual decline in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					

Other					
<i>Additional Information / Clarifications:</i> Base federal funding allocated to sanctuary sites by department of commerce 75%					
*Amended chart entry to reflect clarification.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i> Base federal funding allocated to sanctuary sites by department of commerce 75% sustainable.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS			X		
Field Surveys				X	
Field Excavations		X			
Permitting / Compliance			X		
Conservation	X				
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence	X				
Print Publications / Newsletters				X	
Digital Publications /				X	



Newsletters					
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations		X			
Community Events	X				
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)	X				
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication						X		
Popular Digital Publication				X				
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Creating grassroots level local stewardship and preservation of the underwater cultural heritage; Maintaining funding and support for the inventory, assessment, and protection of the heritage resource; Gaps have been identified; ONMS is supportive of the UNESCO 2011 Convention (particularly the Annex), yet US (and others) have not signed the Convention

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

Re-authorization of the National Marine Sanctuary Act NMSA would grant additional ability to department of commerce to protect significant wreck sites within US waters (but outside sanctuaries)

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Mainly regulations internal to sanctuaries, as part of sanctuary site management plan review processes...also Titanic Act

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Not yet

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Agency has been best at raising the issue of maritime heritage and resource protection to the public at large. This happens when the sanctuary education group works closely with the maritime group. Maritime heritage has served successfully as a hook with which to bring the public into the marine sanctuary "story."

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Greatest challenge to the agency is to maintain some decent level of archaeological standard...NOAA MHP is not an educational/academic organization, but an organization focused on presenting the resource and preservation work to the public. Hard to continue support for the more in-depth archaeological and historical work necessary when the discovery and instant documentation (photographs) of a given wreck site satisfies so much of the outreach mandate. The MHP program is working hard at the local, regional, and national level with a minimum of funding and staffing. Funding is declining.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

NOAA MHP cannot lobby or influence public policy, since [the Department of Commerce] is a federal agency.

**National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries,  
Monitor National Marine Sanctuary**

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**5. Which of these categories would best describe your organization or unit?**

Federal Agency

**6. Briefly describe your organization's mission and or scope.**

The mission of NOAA's National Marine Sanctuaries is to serve as the trustee for the nation's system of marine protected areas, to conserve, protect, and enhance their biodiversity, ecological integrity and cultural legacy.

**7. Briefly describe your organization's history.**

In 1972 the National Oceanic and Atmospheric Administration (NOAA) was established and placed within the Department of Commerce. National Environmental Policy Act established the federal Council on Environmental Quality and mandated a process for federal agencies to fully assess and evaluate the impacts of their actions on the environment and disclose those impacts to the public. President Richard Nixon directs the Council on Environmental Quality to conduct a study of ocean disposal of wastes. In October, the Council publishes its report, entitled "Ocean Dumping -- A National [Policy]. On October 23, [1972] Congress passed the Marine Protection, Research and Sanctuaries Act which, among other things, establishes the National Marine Sanctuary Program. Title III of the law is later renamed the National Marine Sanctuaries Act. Congress passes the Marine Mammal Protection Act and Coastal Zone Management Act. Congress overrides President Nixon's veto and passes the Federal Water Pollution Control Act, substantially rewriting and strengthening federal water pollution control. In 1973, Scientists from Duke University, the State of North Carolina, and the Massachusetts Institute Technology discover the wreckage of the Civil War ironclad USS Monitor off the coast of North Carolina. In 1974, USS Monitor is nominated for national marine sanctuary status by Governor James E. Holshouser, Jr. of North Carolina. On January 30, 1975 -- President Gerald Ford approves the designation of the USS Monitor National Marine Sanctuary off the coast of North Carolina. It becomes the nation's first national marine sanctuary. In 2001, the steam engine of the Monitor is recovered within the Monitor National Marine Sanctuary and transported to The Mariner's Museum. In 2002, the Civil War shipwreck USS Monitor's gun turret had an historic recovery, along with the remains of two Monitor crewmen. Their remains were sent to the U.S. Army's Central Identification Lab in Hawaii for identification. The Monitor's turret is currently undergoing a long-term preservation process at The Mariners Museum. In 2008, the Monitor National marine Sanctuary began a management plan review process.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors				X	
Interns					
Volunteers		X			
<i>Additional Information / Clarifications:</i> Volunteers are seasonal college interns. Contractors include conservation staff from The Mariners' Museum					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Archivists
- Education / Outreach Specialists
- Administration / Support Staff
- Other: Research Coordinator/Media Coordinator

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys			X		
Field Excavations		X			
Permitting / Compliance		X			
Conservation				X	
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.  
Conservation is performed by the Mariners' Museum

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.  
Curatorial Services are provided by the Mariners' Museum

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence		X			
Print Publications / Newsletters				X	X
Digital Publications / Newsletters				X	X
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations		X			
Community Events		X			
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments	X	
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication							X	
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Looting, illegal salvage.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

Greater protection of submerged cultural resources.

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

SMCA, Titanic memorial legislation, Re-authorization of the National Marine Sanctuaries Act.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Yes, lack of enforcement, action, or enacted [regulations] related to the Sunken Military Craft Act. Lack of re-authorization of the National Marine Sanctuaries Act.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Fourth year of cultural resource assessment of Battle of the Atlantic shipwrecks as part of potential expansion effort. Completion of draft Monitor Management Plan Review.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding and Staffing.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response



**National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries,  
Papahānaumokuākea Marine National Monument**

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**5. Which of these categories would best describe your organization or unit?**

Federal Agency

**6. Briefly describe your organization's mission and or scope.**

As part of NOAA's Maritime Heritage Program, our goals are to enhance cultural, historical and archaeological resource management and protection at existing National Marine Sanctuary Sites; activate the public to support ocean conservation and the NMS System with key messages and action that demonstrates the relevance and value of maritime heritage in the oceans and lakes; linking local communities and economies to sanctuaries through maritime heritage examples; and demonstrating the relevance of the Maritime Heritage Program to sites, the National Marine Sanctuary System and to NOAA.

**7. Briefly describe your organization's history.**

Created by Presidential Proclamation 8031 on June 15, 2006, Papahānaumokuākea Marine National Monument established the Northwestern Hawaiian Islands as one of the world's largest protected marine areas. Ecosystem protections for the natural resources in this area date back to 1909, when President Theodore Roosevelt established what is now known as the Hawaiian Islands National Wildlife Refuge. On June 30, 2010, the World Heritage Committee of the United National Educational, Scientific and Cultural Organization (UNESCO) unanimously inscribed Papahānaumokuākea as a mixed (i.e, cultural and nature) site--the first such in the United States and one of only 27 mixed sites in the world. The NWHI are a chain of islands, atolls and shoals extending approximately 1,240 miles northwest from the main Hawaiian Islands. The NWHI and the main Hawaiian Islands together form the Hawaiian Archipelago in the central North Pacific Ocean. A vast, remote, and largely unihabited marine region, the Monument encompasses an area of approximately 142,948 square miles of ocean dotted with small islands, islet and atolls.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors					X
Interns	X				
Volunteers			X		
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- GIS / IT Specialists
- Education / Outreach Specialists
- Administration / Support Staff
- Other

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants					
Affiliated Foundation		X			
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		X
Affiliated Foundation	X	
External Foundation		X
Private Contracts		X
Public Donations		X
Individual / Member Support		X
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS			X		
Field Surveys			X		
Field Excavations		X			
Permitting / Compliance			X		
Conservation		X			
<i>Additional Information / Clarifications:</i> This response reflects "my organization" meaning Papahānaumokuākea Marine National Monument. [The] job [of the] maritime archaeologist/Maritime Heritage Coordinator for the site is focused a little differently. [While] responsible for permitting and GIS, not a large portion of [the] workload is devoted to those things.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.  
We contract out our conservation.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.  
We currently have over 50 conserved artifacts and one exhibit at Papahānaumokuākea's Mokupapapapa Discovery Center (our outreach and curatorial facility).

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence		X			
Print Publications / Newsletters			X		
Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs	X				
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X

Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		X
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication						X		
Scholarly Print Publication								X
Popular Digital Publication					X			
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i> Sanctuary Watch. NOAA's Maritime Heritage Program is aiming to develop a publication series similiar to that of the National Park Service								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Some of the greatest challenges are the inaccessibility of the site, and the expense and challenge for researchers and managers to get there. Enforcement is also a concern, though the remoteness of the sites as well as the intense permitting in the Monument make the place inaccessible to most other than managers and researchers. Concerns are creating awareness and fostering a stewardship ethic about maritime heritage resources at this site. While natural resources are heavily protected and of great concern, maritime heritage resources often take a "backseat" to natural resources.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

The [Sunken] Military Craft Act pertains to several sites in the Northwestern Hawaiian Islands.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Relative to maritime heritage in Papahānaumokuākea, we recently had a very successful media release event regarding the identification of a Nantucket whaling ship discovered in 2008 (identity confirmed in 2010). In collaboration with PMNM's media coordinator, we were able to get the story of the Two Brothers whaling shipwreck project out to hundreds of print, online, and television media outlets, most significantly for us, landing a story on the front page of the New York Times. The publicity that this project generated was important in gaining an awareness of Papahānaumokuākea, as well as the maritime heritage resources that exist there, and the program's attempt to identify and interpret the numerous sites that exist there.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

One of our greatest challenges is the logistics to conduct field research in the Northwestern Hawaiian Islands. It is remote, challenging and costly. To date, only about 20 of potentially 140 maritime heritage resources have been discovered and identified in the Northwestern Hawaiian Islands. Remote sensing is a critical need, but it is expensive and challenging in the NWHI. Many people in the main Hawaiian Islands do not know that the Northwestern Hawaiian Islands are part of the Hawaiian Island Archipelago, so creating an awareness of this place and its resources is a challenge as well.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

I responded to the survey on behalf of Papahānaumokuākea Marine National Monument, rather than as a general NOAA employee. So if some of my response don't seem to make sense (ie contributing to legislation)...I was responding that Papahānaumokuākea did not contribute to these things, though NOAA at a broader level may have.

**National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries,  
Stellwagen Bank Sanctuary**

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**5. Which of these categories would best describe your organization or unit?**

Federal Agency

**6. Briefly describe your organization's mission and or scope.**

Preserve protect and enhance the biodiversity, ecological integrity, and cultural legacy of special places in the ocean and Great Lakes designated by the U.S. Congress.

**7. Briefly describe your organization's history.**

In 1972 the National Marine Sanctuaries Act created a management system for a series of special places in the oceans and Great Lakes. The first National Marine Sanctuary was used to protect the USS Monitor.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors			X		
Interns			X		
Volunteers					X
<i>Additional Information / Clarifications:</i> Staffing levels for the entire Office of National Marine Sanctuaries					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Historians
- Education / Outreach Specialists

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants					
Affiliated Foundation		X			
External Foundation					

Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation	X	
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance		X			
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence		X			
Print Publications / Newsletters		X			
Digital Publications /		X			

Newsletters					
Newspaper Articles / Editorials / Blogs	X				
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			X
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments	X	
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		



**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication				X				
Scholarly Print Publication							X	
Popular Digital Publication			X					
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Even in sanctuaries that prohibit disturbance or removal of archaeological resources, user activities, such as fishing, continue to negatively impact resources. Gap: Submerged archaeological sites outside of State waters are largely open to exploitation of any form.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

The ONMS has been positively affected by recent legislation as it further improves the ability of the ONMS to protect archaeological resources.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The ONMS has partnered to excavate, conserve and exhibit the remains of the USS Monitor, one of America's most significant warships. Recent ONMS inventory work has located and interpreted several significant archaeological sites around the US. Designation of a shipwreck sanctuary at Thunder Bay National Marine Sanctuary. Efforts to preserve and protect the Titanic. Field as a whole: Excavation of La Belle, Sunken Military Craft Act, Successful argument against Odyssey Marine Exploration in the Black Swan/Mercedes case. Recent archaeological studies in deep water using advanced technology.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Federal funding for conservation programs is likely to be cut during the FY12 budget causing the loss of staff and capabilities. In general maritime heritage preservation has a difficult time making the public aware of the difference between treasure hunting and archaeology. Competition for the public's attention is becoming greater as fewer individuals are interested in history.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries,  
Thunder Bay National Marine Sanctuary**

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**5. Which of these categories would best describe your organization or unit?**

Federal Agency

**6. Briefly describe your organization's mission and or scope.**

The sanctuary's mission is to preserve nationally significant shipwrecks and regional maritime landscape through resource protection, education, and research. The sanctuary also promotes appreciation and responsible use of Thunder Bay, the Great Lakes, and the oceans.

**7. Briefly describe your organization's history.**

On October 7, 2000, the National Oceanic and Atmospheric Administration (NOAA) designated Thunder Bay as the nation's 13th national marine sanctuary. Thunder Bay National Marine Sanctuary is jointly managed by NOAA and the state of Michigan. The 1992 congressional legislation that reauthorized the National Marine Sanctuaries Act, 16 U.S.C. § 1431 et seq, ([www.sanctuaries.noaa.gov/about/legislation/](http://www.sanctuaries.noaa.gov/about/legislation/)) requires that each of the national marine sanctuaries periodically engages in a management plan review process to reevaluate site-specific goals and objectives and to develop management strategies and activities to ensure the sanctuary best protects its resources. The original Thunder Bay National Marine Sanctuary Management Plan was written as part of the sanctuary designation process. This Final Management Plan (2009) was prepared by NOAA and the state of Michigan in cooperation with the Thunder Bay Sanctuary Advisory Council and with input from the public, local governments, state and federal agencies, and other stakeholders. The plan is comprised of four action plans (Resource Protection, Education and Outreach, Research, and Sanctuary Operations and Administration). It sets priorities to guide sanctuary programs and operations and provides the public with a better understanding of the sanctuary's strategies to protect Thunder Bay's resources.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors				X	
Interns					
Volunteers					
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Historians
- Archivists

- Education / Outreach Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants				X	
State Funds / Grants		X			
Affiliated Foundation		X			
External Foundation		X			
Private Contracts					
Public Donations					
Individual / Member Support		X			
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants	X	
Affiliated Foundation	X	
External Foundation		X
Private Contracts		X
Public Donations	X	
Individual / Member Support	X	
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS			X		
Field Surveys				X	
Field Excavations	X				
Permitting / Compliance					
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence	X				
Print Publications / Newsletters		X			
Digital Publications / Newsletters	X				
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations		X			
Community Events	X				
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)	X				
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			

<i>Additional Information / Clarifications:</i>
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**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms		X
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication						X		
Popular Digital Publication			X					
Scholarly Digital Publication						X		
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

With declining budgets we need make effective use of available resources and apply for external grants to supplement our base budget. We're focusing on continuing the inventory of our existing cultural resources and educating the public on the importance of historical preservation through outreach and educational opportunities made available at our facility.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

A bill is currently before congress that proposes to expand the sanctuary boundaries by nine times.

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Yes, we regularly work with the state of Michigan on reviewing state laws.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Innovative, cost-effective technologies have paved the way for sanctuary staff to locate and learn more about significant shipwrecks at Thunder Bay National Marine Sanctuary. With a grant from NOAA's Office of Exploration and Research, the sanctuary deployed cutting-edge shipwreck-finding technology to Lake Huron's "Shipwreck Alley." A 448-square-mile area with 50 known historic shipwrecks is protected by the Thunder Bay sanctuary, but there are more shipwrecks to be discovered beyond the sanctuary boundaries. From Aug. 16 to 27, a team from the sanctuary and the Applied Research Laboratories at the University of Texas at Austin set out to discover new shipwrecks and prehistoric archaeological sites using an autonomous underwater vehicle. Visitors who travel to Alpena, Mich., to dive on the wrecks of the sanctuary and learn about them in its visitor center have bolstered the local economy, sparking considerable local and regional interest in expanding the sanctuary to include more shipwrecks.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding and staffing at our particular site as our education and outreach efforts grow to educate the public about historic and cultural preservation. The field as a whole: funding.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## United States Department of Transportation, Maritime Administration

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### 5. Which of these categories would best describe your organization or unit?

Federal Agency

### 6. Briefly describe your organization's mission and or scope.

The Maritime Administration's (MARAD) mission is to strengthen the U.S. maritime transportation system – including infrastructure, industry and labor - to meet the nation's economic and security needs. To that end, the agency supports the development and maintenance of a sufficient, well-balanced U.S. merchant marine to transport the nation's domestic waterborne commerce and a large portion of its waterborne foreign commerce. Moreover, it should be capable of serving as a naval and military auxiliary in time of war or national emergency. Additionally, the agency ensures that the U.S. maintains adequate shipbuilding and repair services, efficient ports, effective intermodal water and land connections, and reserve shipping capacity for use during a national emergency. The primary legislative authority governing MARAD's current role in maritime transportation is the Merchant Marine Act of 1936 (46 U.S.C. §57103), as amended. Section 101 of the Act declares that it is U.S. policy to foster the development and encourage the maintenance of a merchant marine that is for the national defense and development of its foreign and domestic commerce.

### 7. Briefly describe your organization's history.

The Maritime Administration (MARAD) was established in 1950 as one of the successor agencies to the U.S. Maritime Commission, an independent agency that was created under the Merchant Marine Act of 1936. Its mission included the further development and maintenance of a merchant marine to support U.S. commerce and defense. The commission also regulated U.S. ocean commerce, supervised freight and terminal facilities, and administered funds to construct and operate commercial ships. The Maritime Commission succeeded two earlier agencies, the U.S. Shipping Board and the U.S. Shipping Board Bureau of the Department of Commerce. The Commission also took over the property and records of the U.S. Shipping Board Merchant Fleet Corporation. When the War Shipping Administration was established in 1942, it took over many functions of the commission, including the operation of the merchant marine; however, shipbuilding remained under the commission. In 1946 all functions were returned to the commission. The Maritime Commission was eliminated in 1950 and its functions were transferred to the Department of Commerce and assigned to MARAD and the Federal Maritime Board. In 1961, the Federal Maritime Board's regulatory functions were assumed by the newly created Federal Maritime Commission (an independent regulatory agency), while the subsidy functions were assigned to MARAD. In 1981, MARAD was transferred to the Department of Transportation.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors	X				
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i>					



**9. Institutional member levels, if applicable:**

501-1000

\* Modified to [N/A] due to federal agency status

**10. What kind of specialists are employed by your organization?**

- Cultural Resource Managers
- Historians
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research			X		

Inventory / GIS		X			
Field Surveys	X				
Field Excavations	X				
Permitting / Compliance	X				
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence			X		
Social Media Presence					X
Print Publications / Newsletters				X	
Digital Publications / Newsletters				X	
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations			X		
Community Events			X		
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication							X	
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

There are many policy concerns, however, it would not be appropriate to address them at this point in time.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

Not so much legislation or regulations but we have been involved in policy recommendations on the treatment of submerged cultural resources.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No, I cannot think of any changes that have recently affected this agency.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

MARAD has become more proactive in preserving and interpreting its history through a number of recent initiatives. To better manage our heritage assets, we built a program with the goal of

identifying, preserving and interpreting our historic property. We currently have approximately 12,000 artifacts in our collection, which are located in several different locations throughout the agency. These artifacts were never managed properly or as one collection. The largest number of historic artifacts is located at the American Merchant Marine Museum at the U.S. Merchant Marine Academy at Kings Point, N.Y. MARAD artifacts located elsewhere were evaluated and many were removed from the collection for various reasons. Redundant artifacts were transferred to qualified museum/memorial ships to support their maritime heritage educational outreach programs. We recently hired contractors to do a complete inventory and assess the condition of all of the heritage assets at the American Merchant Marine Museum and throughout the campus of the U.S. Merchant Marine Academy. Further, we are working on a virtual museum for our website as well as traveling exhibits to reach a larger audience. We plan to partner with the National Park Service to provide grants to support maritime heritage education and preservation projects. We have also partnered with the National Park Service's Historic American Engineering Record (HAER) office to document historic vessels prior to their recycling. Documentation includes a history, large format black and white photographs, as well as drawings. These reports are archived at several repositories including the Library of Congress. For submerged resources we plan to develop a database that includes merchant vessels that were lost, mainly during WWII.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

The biggest challenge that MARAD faces in regard to maritime heritage preservation is the lack of funding and staff. There are currently just two MARAD staff members who are working in historic preservation, which is not nearly enough to run a fully successful program. We are obviously not alone in this current budget environment and unfortunately I do not see anything changing anytime soon.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

Thank you for the opportunity to participate in this survey. I hope that this helps somewhat in your research project!

## United States National Park Service, Archeology Program

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### 5. Which of these categories would best describe your organization or unit?

Federal Agency

### 6. Briefly describe your organization's mission and or scope.

The NPS Mission: The National Park Service preserves unimpaired the natural and cultural resources and values of the national park system for the enjoyment, education, and inspiration of this and future generations. The Park Service cooperates with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world. The Mission of the Archeology Program: Paralleling the full NPS mission to serve both parks and partners, the Archeology Program promotes the identification, evaluation, documentation, conservation, protection, and interpretation of archeological resources in units of the National Park System, and provides national leadership, coordination, and guidance for federal and other public archeology programs.

### 7. Briefly describe your organization's history.

Since the creation of the National Park Service in 1916, archeologists within the agency have managed archeological resources on Park Lands. Archeologists worked through the first half of the century to protect archeological sites from damage caused by large civic projects such as dam and pipeline construction. In 1967, the Office of Archeology and Historic preservation was established to coordinate NPS activities under the newly passed National Historic Preservation Act. Its functions were briefly moved to the short-lived Heritage Conservation and Secreation Service in the late 1970s, but were re-integrated into the National Park Service in 1981. Since then, the Archeology Program has worked to coordinate the protection and stewardship of archeological sites throughout the National Park Service. The position of Departmental Consulting Archeologist (DCA) was created in 1927 to advise the Secretary of the Interior about archeological matters handled by any bureau of the Department. Jesse Nusbaum, a Southwestern archeologist and contemporary of Edgar Lee Hewett and Alfred V. Kidder, was the first DCA. From its inception the DCA activities included a range of functions. Review of Antiquities Act permit applications and oversight of permitted investigations were a main activity. Other important activities included: advocating for better protection of archeological sites scattered over the lands of the Department, mainly in the Southwest; preventing unlawful excavation and gathering of objects of antiquity on federal and tribal lands; and encouraging the publication of archeological reports through the scientific and educational institutions that carried out most of the studies done under early Antiquities Act permits. While the DCA no longer issues ARPA or Antiquities Act permits, the office remains a function within the National Park Service Archeology program for interagency coordination of archeological resource management and protection efforts.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors		X			
Interns					
Volunteers					

*Additional Information / Clarifications:* Several cooperative agreements provide temporary personnel through paid internships periodically.

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					

*Additional Information / Clarifications:*

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		

*Additional Information / Clarifications:*

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS	X				
Field Surveys	X				
Field Excavations	X				
Permitting / Compliance		X			
Conservation	X				
<i>Additional Information / Clarifications:</i> The Archeology Program no longer has a maritime archeologist on staff. Most of the AP time devoted to underwater cultural heritage is involved in working on interagency and international agreements for the management of submerged resources on Federal lands. These activities take between 1% and 25% of the AP's time. The AP also coordinates funding for inventory and condition assessment projects within the Park Service and maintains a servicewide database (ASMIS) that tracks registration and management data for all sites on NPS lands, including submerged, littoral, and terrestrial sites. These activities take between 26 and 50% of AP time, but do not apply strictly to maritime or underwater sites.					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

No, our organization does not currently have a conservation facility.

The Archeology Program does not perform field research - data collection and artifact conservation activities are left to field or contractor researchers. NPS regions maintain their own curation and conservation facilities.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

The Archeology Program does not perform field research - data collection and artifact conservation activities are left to field or contractor researchers. NPS regions maintain their own curation and conservation facilities.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence	X				
Social Media Presence			X		
Print Publications / Newsletters			X		
Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs					X

Lectures / Presentations			X		
Community Events					X
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			

*Additional Information / Clarifications:* ASMIS (Archeological Sites Management Information System) is a secure database that contains sensitive information protected by Federal Law on both terrestrial and submerged sites. This includes location data that, in some cases, may not be shared outside the Park level. Requests for information must come from qualified archeologists, and the need for the information must be compelling. Sensitive data may be withheld, even if other data are shared.

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)	X	



*Additional Information / Clarifications:* ASMIS was developed through collaboration with Park and Regional archeologists as well as SHPOs. A contractor developed and supports the most recent version. Park and Regional archeologists, cultural resource management firms, and University cooperators help to populate the database through research activities in the National Parks. Researchers are required to enter data on newly discovered sites into ASMIS, and to update information on site conditions of previously discovered sites that they visit. The NPS's Submerged Resources Center conducts much of the underwater archeological inventory and condition assessment work.

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication				X				
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i> CRM - the Journal of Heritage Management								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Management of foreign-owned wrecks on NPS lands, permitting under Sunken Military Craft Act. We are working to develop management agreements with the governments of the UK and Spain for the management of wrecks they own on NPS lands in order to assure the continued stewardship of these sites. Looting and salvage is also a major concern of NPS, but we have not identified any legislative gaps at this time.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

ARPA, 36CFR79, Abandoned Shipwrecks Act,

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

It is unclear at this time how proposed regulations pursuant to the Sunken Military Craft Act will affect the management of wrecks on NPS lands.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

A former AP employee recently completed a series of essays on maritime heritage laws in each of the 50 states: <http://www.nps.gov/archeology/sites/stateSubmerged/index.htm> In addition, the AP is working on management agreements for foreign-owned wrecks on NPS lands, including HMS Fowey in Biscayne National Park. We are planning to develop more general agreements to foster stewardship of and research on such resources with the governments of the UK and Spain.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Staffing is the greatest challenge to the Archeology program at the present time. I am not an underwater archeologist, and don't think I know enough about the field to comment on the question about more general challenges.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## United States National Park Service, Submerged Resources Center

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### 5. Which of these categories would best describe your organization or unit?

Federal Agency

### 6. Briefly describe your organization's mission and or scope.

The National Park Service's Submerged Resources Center is the national asset of the Park Service for operational diving and the location, documentation and interpretation of submerged resources (primarily cultural). The Center's jurisdictional responsibilities encompass approximately 5 million acres of submerged lands in more than 135 units that range from Maine to the Virgin Islands and Alaska to Guam. Because NPS is the United State's lead preservation agency, we also have responsibilities for properties deemed eligible for the National Register of Historic Properties. This additional responsibility has lead to work internationally throughtout the South Pacific, in Europe and in Southern Africa.

### 7. Briefly describe your organization's history.

The National Park Service has the oldest non-military diving program in the federal government. The Submerged Resources Center started in 1977 as the National reservoir Innundation Study- a project designed to assess the impacts of immersion on cultural resources caused by dam construction. At the conclusion of the study in 1983, the project staff were converted to permanent employees and a diving unit known as the Submerged Cultural Resouces Unit formed. This unit became the standing capacity for underwater archeology and operational diving in the National Park Service. In 1999 the unit was renamed the Submerged Resources Center and our mandate expanded to include some natural resources work as well. In 2009 the Center moved from its former home in Santa Fe New Mexico to its current location in Denver Colorado

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff				X	
Contractors	X				
Interns		X			
Volunteers		X			
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- GIS / IT Specialists
- Administration / Support Staff
- Other
- Audio Visual Production Specialists

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants	X				
Affiliated Foundation	X				
External Foundation	X				
Private Contracts		X			
Public Donations		X			
Individual / Member Support	X				
Other	X				
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS			X		
Field Surveys			X		
Field Excavations	X				
Permitting / Compliance		X			
Conservation	X				
<i>Additional Information / Clarifications:</i> The National Park Service rarely engages in full site excavations as a consequence we do not usually recover or conserve artifacts. This is a NPS policy of in situ preservation					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

NPS has multiple curation facilities, although as mentioned above, we do not, as a rule, recover artifacts.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence			X		
Social Media Presence		X			
Print Publications / Newsletters			X		
Digital Publications / Newsletters				X	
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations		X			
Community Events			X		
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies	X		
Foreign Governments	X		
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments	X	
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication							X	
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i> We typically publish multiple publications in each of these categories per year, however not on a regular basis								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

We are still working within the National Park Service to establish parity between submerged and terrestrial resources and to build and maintain capacity for their effective survey, documentation and management.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

We are currently working on both state/federal agreements and international agreements (e.g. with the United Kingdom) to establish cooperative agreements regarding the appropriate management of submerged cultural resources in instances of shared jurisdiction.

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

The [Abandoned Shipwreck Act], recent Titanic legislation and other federal laws and regulations. The UNESCO convention on underwater cultural heritage borrows heavily for established NPS documents and policies for archeological resources management.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Not really

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Our most recent and important achievement has been securing more stable funding support from the National Park Service and, as a consequence, increasing our capacity to effect positive change for the preservation and management of submerged cultural resources both in National Parks but also world-wide.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

With growth comes visibility and in our current climate that is generally anti-government, we will have to work hard to explain to the American tax payer that we are not just out scuba diving on their money, but also doing important work that protects their heritage.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

Thank you for the opportunity to participate.

**State Agencies**



## Alabama, Alabama Historical Commission

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### 5. Which of these categories would best describe your organization or unit?

State Agency

### 6. Briefly describe your organization's mission and or scope.

To protect, preserve and interpret Alabama's Historic Places. The Alabama Historical Commission's goals and objectives parallel those in the Alabama Statewide Comprehensive Preservation Plan. These goals guide the agency's federally-funded historic preservation programs, the state-funded preservation programs and the AHC's historic sites.

### 7. Briefly describe your organization's history.

The Alabama Historical Commission is the state agency charged with safeguarding Alabama's historic buildings and sites. It was created by an act of the state legislature in 1966. The State Historic Preservation Office is part of the Alabama Historical Commission, as is a number of other federal preservation programs. For a complete list, please see our website [www.preserveala.org](http://www.preserveala.org). Or agency manages 14 historic properties around the state that are open to visitors. We also advise the public regarding a number of state preservation laws. Most interesting to your study would probably be the Maritime Archaeology permits that we issue under the Alabama Underwater Cultural Resources Act. A law that is currently threatened by pending legislation that would allow private citizens to collect artifacts from archaeological sites in state waters.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors	X				
Interns	X				
Volunteers		X			
<i>Additional Information / Clarifications:</i> We have no staff dedicated to maritime heritage. [It falls on the role of the] state archaeologist [who] had to learn to dive and read voraciously about the subject of maritime archaeology after the fact. [M]embers of [the] Maritime Advisory Council [are counted] as Volunteers; they are [a] great help.					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Terrestrial Archaeologists
- Cultural Resource Managers
- Curators
- Historians
- Architects
- Education / Outreach Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see moderate to rapid decline in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants			X		
State Funds / Grants			X		
Affiliated Foundation	X				
External Foundation	X				
Private Contracts	X				
Public Donations	X				
Individual / Member Support	X				
Other			X		
<i>Additional Information / Clarifications:</i> [Other:] Receipts from visitation at properties, sales at gift shops, etc.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		X
<i>Additional Information / Clarifications::</i> While Government funding [was noted] as reliable and sustainable, it is rapidly decreasing.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS			X		
Field Surveys			X		
Field Excavations		X			
Permitting / Compliance					X
Conservation			X		
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence				X	
Social Media Presence				X	
Print Publications / Newsletters			X		
Digital Publications / Newsletters					X
Newspaper Articles / Editorials / Blogs				X	
Lectures / Presentations	X				
Community Events		X			
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)	X				
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication							X	
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

The main concern is a bill in the Alabama Legislature that will replace our current Alabama Underwater Cultural Resources Act which protects all [National Register] eligible sites in state waters and provides a permit process for the scientific exploration of those sites with a bill which allows private collectors to destroy those sites by mining them for their private gain.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

We are trying to stop the bill that I mentioned above.

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

We drafted the original Alabama Underwater Cultural Resources Act in 2001.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Yes, in 2006 someone was arrested and convicted of theft of state property under the Alabama Underwater Cultural Resources Act. This person had a powerful friend in the legislature, that friend tried to change the law in 2006 but we were able to stop it. His friend in the legislature has reintroduced the bill this legislative session but has gained much more traction in a legislature made up of many freshmen. There are other issues but too many to explain here.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

We are planning a GIS database of maritime sites, a web page so that the public can be involved in our maritime management plan. In terms of public outreach, we are planning a press conference soon to unveil some work we have been doing on a shipwreck as a part of the festivities of the Civil War sesquicentennial.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Right now it is the legislative challenge, but [also] funding and it would be great to have someone on staff who is actually an expert in maritime archaeology. I do my best and I thoroughly enjoy every minute of it, but I was trained as a terrestrial archaeologist and my time is stretched so thin that I have too little time to devote to learning about it.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Alaska, Alaska Office of History and Archaeology

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### 5. Which of these categories would best describe your organization or unit?

State Agency

### 6. Briefly describe your organization's mission and or scope.

From our Alaska Historic Preservation Act (AS 41.35.010): Declaration of Policy. "It is the policy of the state to preserve and protect the historic, prehistoric, and archeological resources of Alaska from loss, desecration, and destruction so that the scientific, historic, and cultural heritage embodied in these resources may pass undiminished to future generations. To this end, the legislature finds and declares that the historic, prehistoric, and archeological resources of the state are properly the subject of concerted and coordinated efforts exercised on behalf of the general welfare of the public in order that these resources may be located, preserved, studied, exhibited, and evaluated." The state manages archaeological and historic resources on state lands, including tidelands, navigable waters, and submerged lands out to 3 miles.

### 7. Briefly describe your organization's history.

The Alaska Office of History and Archaeology carries out the responsibilities of the State Historic Preservation Office. It was created in 1971.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors	X				
Interns			X		
Volunteers		X			
<i>Additional Information / Clarifications:</i> Numbers of interns and volunteers increase during summer months for field projects -- although these are strictly terrestrial.					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Historians
- Architects
- Education / Outreach Specialists
- Administration / Support Staff

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect to see gradual growth in staffing levels.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants				X	
State Funds / Grants			X		
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i> Funding is primarily Federal and State, but may be supplemented periodically by small private foundation grants for specific projects.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance			X		
Conservation		X			
<i>Additional Information / Clarifications:</i> We do not have a dedicated maritime heritage program, but occasionally collaborate with agencies and institutions who have this type expertise. We also issue permits for investigations on state submerged lands.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

We depend on the Alaska State Museum for conservation expertise, but also occasionally contract with outside laboratories (for example, Texas A&M).

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

We have an archaeology laboratory, and can perform some conservation treatments (for example, some electrolysis, silicone impregnation, etc.)

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence					X
Print Publications / Newsletters			X		
Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations		X			
Community Events			X		
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers			X
University/Non-Profit Affiliated Researchers	X		
Cultural Resource Management Firms	X		
State Agencies	X		
Federal Agencies	X		
Foreign Governments		X	
Other (please explain below)			
<i>Additional Information / Clarifications:</i> Submerged resources are included in our overall cultural resources database, but are limited in number. We primarily use the Alaska BOEMR database for shipwrecks.			



**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i> We include submerged sites submitted by others in our database.		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication				X				
Popular Digital Publication								X
Scholarly Digital Publication				X				
<i>Name of Publication(s) / Additional Information:</i> HERITAGE Newsletter. We have a publication series for professional project reports prepared by our staff.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Submerged cultural resources are included by definition in our existing statutes and regulations, but are lumped with cultural resources as a whole. Our regulations should be re-written to include language specific to submerged resources. Alaska has more than half the nation's coastline and an estimated (by BOEMR) 3,000 shipwrecks, but no dedicated maritime program. The advent of better and less expensive technologies (GPS, deep-diving technologies, etc.) are placing resources at a greater risk. To date, we have little baseline information.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

We respond to federal laws, such as the Sunken Military Crafts Act, [Abandoned Shipwreck Act], etc. and find them useful.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

We have participated with NOAA/ONMS and other organizations on collaborative projects since 2004. These have been primarily aimed at collecting baseline information on specific sites or areas. In 2010, OHA and NOAA collaborated to offer three-day maritime heritage awareness courses in Anchorage and Juneau. These were well-attended by a diverse suite of participants and resulted in a basic NAS certification. On an opportunistic basis, we facilitate guest lectures by visiting maritime specialists at regional museums.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

With more than half the nation's coastline, Alaska really needs a dedicated maritime heritage program. However, lack of funding and expertise has precluded this.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## California, California State Parks, Department of Parks and Recreation

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### 5. Which of these categories would best describe your organization or unit?

State Agency

### 6. Briefly describe your organization's mission and or scope.

The Mission of the Archaeology, History and Museums Division: To provide inspiration and leadership in acquiring, conserving, and managing cultural resources that represent California's rich history and diverse population AND To foster an appreciation of the extraordinary value of California's cultural heritage for the enjoyment of present and future generations through access, education, service, and stewardship.

### 7. Briefly describe your organization's history.

Modern system of state parks dated to 1928 and the plan developed by Fredrick Law Olmsted, Jr. California State Parks manages approx 1.8 million acres spread across 279 units. The nation's first underwater state park was established at Point Lobos in 1960. Since then some 19 other units have been established in ocean, lake and reservoir settings.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors		X			
Interns				X	
Volunteers					X
<i>Additional Information / Clarifications:</i> Department-wide: approx 30 archaeologists and historians plus seasonal staff					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Historians
- Archivists
- Architects
- Education / Outreach Specialists
- Administration / Support Staff
- Other

No trained UW archaeologists since 2009

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual decline in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants				X	
Affiliated Foundation	X				
External Foundation	X				
Private Contracts	X				
Public Donations		X			
Individual / Member Support	X				
Other	X				

*Additional Information / Clarifications:* Cultural programs supported by state general fund and bond funds for capital improvements. General fund support is declining and the administration has decided to close 70 units by July 1, 2012. Some closures may be avoided through outside funding support from volunteer and non-profit organizations.

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants	X	
Affiliated Foundation		X
External Foundation		X
Private Contracts		X
Public Donations		X
Individual / Member Support		X
Other		X

*Additional Information / Clarifications:* State funds and user fees provide the bulk of ongoing support. Allocations have been declining over the last decade to the point where park closures are now necessary.

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations	X				

Permitting / Compliance		X			
Conservation		X			
<i>Additional Information / Clarifications:</i> Very minimal program at present. Environmental clearance activities require some survey and resource evaluation.					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

Yes, our organization has a conservation facility, but it does not fully meet our needs.  
Not really equipped to do conservation treatment of maritime objects. We contract out for expertise.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.  
Same as above. Indiana University and ECU have done conservation work for us in the past.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence			X		
Social Media Presence				X	
Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations			X		
Community Events		X			
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					X
Other #2 (please clarify below)					X
<i>Additional Information / Clarifications:</i> State Parks engages in considerable public outreach, but very little is done for maritime heritage. We operate lighthouse properties and underwater parks, but do not engage with maritime museums or Federal maritime programs to any significant extent.					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers	X		
University/Non-Profit Affiliated Researchers	X		
Cultural Resource Management Firms	X		
State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i> [Submerged cultural resources] records same as terrestrial records.			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i> Worked with State Lands Commission and other agencies in the past. This has resulted in some resource inventory information. Most submerged lands remain unsurveyed.		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication						X		
Popular Digital Publication				X				
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i> California Archaeology and History								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

As budgets get tight, [submerged cultural resources] are receiving less support and active management. State Parks SCUBA program is in decline and only one park archaeologist is currently certified (Lake Tahoe). State Parks is in a survival mode when it comes to submerged cultural resources. It will probably be 5 years or so before the maritime program is restored to any reasonable level. The Marine Life Protection Act has created a system of California [marine protected areas], but without any consideration of cultural resources. This is a big setback for [submerged cultural resource] management.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Stature requiring salvage permits to be issued for historic shipwrecks be reviewed by SHPO.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No, nothing has changed.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

California was at one point a leader in underwater parks. It established the first underwater park at Point Lobos in 1960 -- a few months before John Pennecamp. Parks manages 1/4 of the state's coastline, but has been forced by budget issues to de-emphasize its maritime programs. Establishment of underwater park encompassing Emerald Bay, Lake Tahoe in 1994 was a major accomplishment and many [submerged cultural resources] preserved.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding and staffing remain very inadequate to deal with maritime heritage resources on state lands. The State Lands Commission is the agency with jurisdiction for all state submerged lands but has no archaeologists or historians assigned to do this work. State Parks manages UW units but is under severe budget constraints. The public supports parks and maritime heritage programs, but support is not sufficient to avoid closures and program abandonment.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

California deserves to have a robust maritime heritage program, but it never has developed one. There are no university programs in this specialty and only sporadic course offerings. It just has never developed here, for whatever reason. I don't see this changing.



**Florida, Florida Division of Historical Resources, Bureau of Archaeological Research**

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**5. Which of these categories would best describe your organization or unit?**

State Agency

**6. Briefly describe your organization's mission and or scope.**

The Division of Historical Resources is one of seven divisions within the Department of State, and the state agency responsible for promoting the historical, archaeological, museum and folk culture resources in Florida. The Division Director serves as Florida's State Historic Preservation Officer (SHPO), providing a liaison with the national historic preservation program conducted by the National Park Service.

**7. Briefly describe your organization's history.**

Organized by the Florida Archives and History Act in 1968

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors					
Interns			X		
Volunteers				X	
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Historians
- Architects
- Education / Outreach Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants			X		
State Funds / Grants			X		
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other			X		
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS					X
Field Surveys			X		
Field Excavations		X			
Permitting / Compliance					X
Conservation				X	
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence			X		
Print Publications / Newsletters	X				
Digital Publications / Newsletters					
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events		X			
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	

University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication						X		
Scholarly Print Publication						X		
Popular Digital Publication						X		
Scholarly Digital Publication						X		
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Public outreach and education Florida Public Archaeology Network is of great assistance. We have revised the Rule 1A-31 of Florida Administrative Code dealing with exploration and recovery of historic shipwrecks to strengthen it.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Rule 1A-31 of Florida Administrative Code

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

<http://www.flheritage.com/archaeology/underwater/maritime/>

<http://www.flheritage.com/archaeology/underwater/galleontrail/index.cfm>

<http://www.flheritage.com/archaeology/underwater/seamuseum/index.htm>

<http://www.flheritage.com/archaeology/projects/shipwrecks/emanuelpoint/index.cfm>  
<http://www.flheritage.com/archaeology/projects/shipwrecks/legacy/index.cfm> Florida Panhandle  
Shipwreck Trail in progress

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding, staffing, public awareness.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## **Maryland, Maryland Historical Trust, Maryland Maritime Archaeology Program**

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### **5. Which of these categories would best describe your organization or unit?**

State Agency

### **6. Briefly describe your organization's mission and or scope.**

The Maryland Historical Trust (Trust) is a state agency dedicated to preserving and interpreting the legacy of Maryland's past. Through research, conservation and education, the Trust assists the people of Maryland in understanding their historical and cultural heritage. The Trust is an agency of the Maryland Department of Planning and serves as Maryland's State Historic Preservation Office (SHPO) pursuant to the National Historic Preservation Act of 1966. MHT has offices addressing terrestrial and underwater archaeology, architectural preservation, GIS, National Register, a State inventory, research and survey, state/federal project, financial programs, museums, and a research library for professional, students and staff.

### **7. Briefly describe your organization's history.**

The Trust was created in May of 1961 as a quasi-public corporation for the purpose of accepting and maintaining gifts of property and for assisting and encouraging preservation activities throughout the state. Funding was provided by the State and leadership was provided by a Board of Trustees which still exists today. Over the next few years, a survey and inventory program was initiated and financial assistance programs including state-funded grants and loans were developed. In 1966, Congress passed the National Historic Preservation Act which created the National Register of Historic Places, established grant programs for restoration projects and survey activity, and required review of federally involved projects for impacts on historic properties. The Act also established a system of state liaison officers to administer these federal programs. In Maryland, then Governor Spiro Agnew appointed the Trust's Director as the State Liaison Officer in 1967 and the Trust became the state historic preservation office (SHPO). Over time, the Trust's mission has grown to include the review of state undertakings on historic properties, assistance to non-state historical and cultural museums, cultural conservation, underwater archeology, and heritage tourism activities. Programs of the Trust include the Jefferson Patterson Park and Museum (JPPM) located in Calvert County, Maryland. This 560-acre property was donated to the State of Maryland in trust to the Maryland Historical Trust on June 16, 1983 by Mrs. Jefferson Patterson to be a passive recreation, education, and research facility. Today, JPPM is home to the State Museum of Archeology and the Maryland Archeological Conservation Laboratory.

### **8. Staffing levels:**

	<b>N/A</b>	<b>1-3</b>	<b>4-6</b>	<b>7-10</b>	<b>10+</b>
Permanent Staff					X
Contractors			X		
Interns		X			
Volunteers					X
<i>Additional Information / Clarifications:</i>					

### **9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Historians
- Architects
- Education / Outreach Specialists
- Administration / Support Staff

Most of these people are expected to do some outreach and education as well as their daily job.

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants			X		
State Funds / Grants				X	
Affiliated Foundation	X				
External Foundation		X			
Private Contracts					
Public Donations		X			
Individual / Member Support	X				
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants	X	
Affiliated Foundation		X
External Foundation		X
Private Contracts		X
Public Donations		X
Individual / Member Support		X
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research			X		

Inventory / GIS		X			
Field Surveys				X	
Field Excavations		X			
Permitting / Compliance				X	
Conservation		X			
<i>Additional Information / Clarifications:</i> The overall SHPO is different from my program. I am addressing [the Maryland Maritime Archaeology Program] specifically here.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.

It is filling rapidly and is not geared to accepting large collections or artifacts.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence		X			
Social Media Presence				X	
Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events			X		
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes



**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms	X		
State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i> Occasionally a volume is produced								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Concessions were made during the promulgation of submerged heritage legislation that substantively weakened its effectiveness and applicability but garnering permission to initiate steps to correct this has not been forthcoming.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

34.04.03.00. Title 34 DEPARTMENT OF PLANNING Subtitle 04 HISTORICAL AND CULTURAL PROGRAMS Chapter 03 Protection of Submerged Archeological Historic Property State Finance and Procurement Article, §5A-301, 5A-339, 5A-340, and 5A-341, Annotated Code of Maryland

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

We have been extremely successful in obtaining ongoing funding for diverse projects, have a generally positive perception in the public eye and undertake a substantial number of public outreach activities. We are planning on additional state/federal partnerships for the development of preserves and specific projects. There have been some extremely good, high-profile projects undertaken nationally and globally; international cooperation is increasing. The passage of UNESCO's [Convention on the Protection of the Underwater Cultural Heritage] is great but needs to have more buy-in from major nations.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Staffing is Number 1; each staff member is easily doing the work of two people and in some situations 3. Tied to this of course is funding; being able to replace or purchase equipment when needed, hire staff and travel both in the field and to conferences. As a whole the field is suffering from the ongoing problem of media glorification of unethical artifact recovery. This is escalating with entities like the Smithsonian and the National Geographic Society becoming embroiled in or championing unethical behavior.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Negative

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

Without legal mandates and improved funding, the inroads made at the State and federal levels will be lost. Many SHPOs are not replacing retiring underwater archaeologists or are cutting back programs as universities turn out more degreed professionals who have no opportunities for experience, positions or professional advancement and may end up contributing to the problem

of archaeologists supporting or becoming involved with dubious projects in an effort to remain employed.

## Massachusetts, Massachusetts Board of Underwater Archaeological Resources

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### 5. Which of these categories would best describe your organization or unit?

State Agency

### 6. Briefly describe your organization's mission and or scope.

The Massachusetts Board of Underwater Archaeological Resources is the sole trustee of the Commonwealth's underwater heritage, promoting and protecting the public's interest in these resources for recreational, economic, environmental, and historical purposes. Under state law (MGL c. 6, ss. 179-180, and c. 91, s. 63, the Commonwealth holds title to these resources and Board is charged with the identification, assessment, promotion and protection of underwater archaeological resources. No person may remove, displace, damage, or destroy any underwater archaeological resource except in conformity with permits issued by the Board. The Board is a state-wide program; its jurisdiction extends over the inland and coastal waters of the State. Key functions and program activities: Resource Stewardship and Permitting; Technical Assistance and Project Review; and Public Outreach and Education.

### 7. Briefly describe your organization's history.

Established in 1973, this 9 member state Board is a statutory program of the Executive Office of Energy and Environmental Affairs (MGL c. 6, s. 179). In 1985, state regulations were promulgated. It was not until 1987 that a full-time staff consisting of one professional archaeologist [was instated]. It is administratively hosted at Coastal Zone Management Office since 1988. The program is currently supported by 1 FTE (bond funded).

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors	X				
Interns		X			
Volunteers		X			
<i>Additional Information / Clarifications:</i> Interns are unpaid					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Administration / Support Staff

Arch/CRM special - one person; GIS and admin support services provided by host agency, CZM

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants					X
Affiliated Foundation	X				
External Foundation	X				
Private Contracts	X				
Public Donations	X				
Individual / Member Support	X				
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		
External Foundation		X
Private Contracts		X
Public Donations		X
Individual / Member Support		X
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations	X				
Permitting / Compliance			X		
Conservation	X				
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

Objects chiefly the result of confiscations.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence					
Social Media Presence					X
Print Publications / Newsletters					X
Digital Publications / Newsletters					X
Newspaper Articles / Editorials / Blogs					X
Lectures / Presentations		X			
Community Events			X		
Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					
Other #1 (please clarify below)		X			
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i> Other#1 - Public meeting minutes are distributed Educational Training - Currently developing 2 volunteer programs - onshore and diving					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i> Under state law, site files are not public records.			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies	X	
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Commercial salvage liabilities and limited penalties. Absent the elimination of commercial salvage provisions, there is the need for performance bonds to cover potential liability for conservation should objects be abandoned to state custody. Limited disincentive to potential violations due to limited penalty for violations of statute and regulations. Classified as a misdemeanor with a fine up to \$1,000 and/or up to 6 months jail time. Any confiscation currently limited to cultural objects alone. The existing fine is generally lower than the value of the items illegally recovered or the items used in the commission of the violation. The loss of diving gear and a boat valued at \$50,000 is a far greater deterrent than a fine of \$1,000. This could provide the state with a mechanism to recover some portion of law enforcement costs through the disposition (sale) of confiscated equipment.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

Under current state law, state agencies are not allowed to lobby on any issue.

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Statute was revised in 1995 to include provision for underwater archaeological preserves.

Regulations were last revised in 2008 to provide for scientific permitting for compliance archaeology projects.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

In January 2007, the Board unanimously passed a resolution adopting the Annex Rules of the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage as best management practices.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The creation of volunteer programs to encourage public participation in the identification and preservation of these resources. Our shoreline heritage identification partnership strategy is to involve the general public and local historical societies in the reporting process; training program is currently in development. An independent (authority) volunteer archaeological diving organization and associated training program (building off of MAHS and NAS type approach as neither has local presence) is also in development to perform initial site assessments and site recording. Unlike permit projects, these efforts are guided by in situ preservation for future appropriate interpretation. Finding ways to appropriately involve the public the process of archaeology builds interest in the resources and understanding of their importance and need for preservation.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Adequate funding and staffing is an obvious challenge. As a one-person program it is nearly impossible to address all aspect of resource management. However, the greatest challenge remains getting the public, legislators, other government agencies, and other scientists to recognize the value and need to preserve and interpret these non-renewable resources. We need to re-capture the public's imagination and support.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

[We] are fighting the same old battles using the same old tactics.



## Michigan, Michigan Department of Natural Resources

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### 5. Which of these categories would best describe your organization or unit?

State Agency

### 6. Briefly describe your organization's mission and or scope.

The State of Michigan's Department of Natural Resources is the joint manager (with NOAA) of the Thunder Bay National Marine Sanctuary.

### 7. Briefly describe your organization's history.

Thunder Bay Underwater Preserve was established as a state shipwreck preserve in the early 1980s and designated a National Marine Sanctuary in 2000.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors					
Interns		X			
Volunteers					X
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Historians
- Education / Outreach Specialists
- Administration / Support Staff

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect to see gradual decline in staffing levels.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

Even distribution of qualified candidates and available positions.

### 13. Please note your primary sources of funding.

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					X
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					

Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		X
Private Contracts		
Public Donations		X
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research			X		
Inventory / GIS			X		
Field Surveys				X	
Field Excavations	X				
Permitting / Compliance			X		
Conservation				X	
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility, but it does not fully meet our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence			X		
Social Media Presence			X		
Print Publications / Newsletters		X			
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials		X			

/ Blogs					
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers	X		
Cultural Resource Management Firms	X		
State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms		X
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication							X	
Popular Digital Publication			X					

Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Site accessibility following discovery without baseline documentation.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

Legislative expansion of the Marine Sanctuary.

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Expansion act, permitting policies, intentional sinking criteria

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Yes. The dissolution of Michigan's Department of History, Arts and Libraries, and the abolishment of the Office of the State Archaeologist.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Working in partnership with NOAA, the marine sanctuary continues to have strong research and education programs that allows for survey, archival research, mooring buoy establishment, and outreach and dissemination of information to the public.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding levels continue to drop and personnel responsible for reviewing permits pertaining to submerged cultural resources are outside of the department.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Minnesota, Minnesota Office of the State Archaeologist

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### 5. Which of these categories would best describe your organization or unit?

State Agency

### 6. Briefly describe your organization's mission and or scope.

[The State Archaeologist is] the chief research archaeologist, chief archaeological educator, and chief public and agency archaeological contact for the state of Minnesota. [The Office issues] licenses to do archaeological work on public property including underwater areas [and] also authenticate[s] and manage[s] unrecorded historic burial sites.

### 7. Briefly describe your organization's history.

Established by the Minnesota Field Archaeology Act in 1963, [the Office of the State Archaeologist falls] within the Minnesota Department of Administration.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors					
Interns					
Volunteers		X			
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Administration / Support Staff

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

More qualified candidates than available positions.

### 13. Please note your primary sources of funding.

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					X
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research					
Inventory / GIS			X		
Field Surveys					
Field Excavations					
Permitting / Compliance			X		
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence	X				
Social Media Presence					
Print Publications / Newsletters		X			
Digital Publications / Newsletters					
Newspaper Articles / Editorials / Blogs					
Lectures / Presentations		X			
Community Events					

Educational / Training sessions (at your organization)					
Educational / Training sessions (on location)					
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers	X		
University/Non-Profit Affiliated Researchers	X		
Cultural Resource Management Firms	X		
State Agencies	X		
Federal Agencies	X		
Foreign Governments			
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments		
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication						X		
Scholarly Print Publication							X	
Popular Digital Publication						X		
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Damage to wrecks due to sport diver vandalism. Preservation of wrecks due to natural deterioration especially ferrous metals. Current laws appear to be strong enough.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

The Minnesota Field Archaeology Act revisions.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

[Yearly attendance of] a sport diver convention in Duluth called "The Gales of November" [and occasional presentations. A] presence alone shows sport divers [there is an] interest in their activities. Overall, the sport diver community in Minnesota is a good steward of underwater resources and many members are [seen as] unofficial deputies.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Most of the shallow water wrecks have been discovered and examined, but many deep water wrecks in Lake Superior still remain to be found. My office has no direct funding to try find these wrecks, although several sport diver groups now have sophisticated side-scan sonar rigs and actively try to find these wrecks. They find about one per year.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

[The] Great Lakes Shipwreck Preservation Society [is] a Minnesota based group of sport divers who actively help preserve Minnesota wrecks and wrecks on Isle Royale. They have a webpage.



**New York, Office of Parks, Recreation & Historic Preservation, Historic Preservation  
Field Services Bureau**

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**5. Which of these categories would best describe your organization or unit?**

State Agency

**6. Briefly describe your organization's mission and or scope.**

We are the New York State Historic Preservation Office (SHPO). We are responsible for state and federal compliance reviews, historic and archaeological resources surveys, the advancement of National Register nominations, assistance with state and federal historic preservation tax incentives, support of Certified Local Governments and a matching grants program.

**7. Briefly describe your organization's history.**

Our organization was initiated as a result of the National Historic Preservation Act of 1966 and initially established as the New York State Historic Trust. It was re-organized as a bureau within the State's Office of Parks and Recreation in the early 1970s and the agency name was later changed to the New York State Office of Parks, Recreation and Historic Preservation to reflect our inclusion.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors	X				
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Historians
- Architects
- Education / Outreach Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual decline in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants			X		
State Funds / Grants			X		
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research	X				
Inventory / GIS		X			
Field Surveys	X				
Field Excavations	X				
Permitting / Compliance		X			
Conservation	X				
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence		X			
Social Media Presence					X
Print Publications / Newsletters					X
Digital Publications / Newsletters					X
Newspaper Articles / Editorials / Blogs					X
Lectures / Presentations			X		
Community Events			X		
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X

University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication							X	
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

New York State has an extensive and extremely rich collection of significant and well-preserved underwater sites in a long list of major water bodies, including, but not limited to the Atlantic Ocean, Long Island Sound, Lake Ontario, Lake Erie, the Finger Lakes, Lake Champlain and the Hudson River. Jurisdiction for the management of these resources is dispersed among five or six state agencies. Staff among these agencies have formed a committee to serve as a clearinghouse of management issues but resources to address needed identification, education, recreational access and law enforcement are currently inadequate.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

State Historic Preservation Act and regulations.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

We have worked diligently to advance the goals of the Abandoned Shipwrecks Act of 1987. We have used this law to defend cultural resources in two legal challenges and we have participated with other agencies in helping to establish recreational diving access through New York State Submerged Heritage Preserves and a statewide "Blueway Trail."

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

We recently prevailed in a challenge to the Abandoned Shipwreck Act of 1987 involving an intact, Great Lakes schooner from c. 1830 which had been arrested by would-be salvors in federal court. The case involved research, expert testimony and the development of a National Register nomination. In the decision finding for the state, the ruling judge found that "abandonment" may be inferred by circumstances and need not be demonstrated by a specific instrument. We anticipate upgrading our shipwreck database into a GIS based system in the near future. Several compliance projects will result in extensive new inventories of underwater resources.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

The downsizing of government is one of several challenges. Another challenge is the widespread ignorance among the public and the media about the value of underwater cultural resources and the laws in place to protect them.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

In spite of the thousands of significant maritime heritage properties within our state, the State Historic Preservation Office must balance these against increasing and often very immediate demands in all other areas of historic preservation.

## **Rhode Island, Rhode Island Historical Preservation and Heritage Commission**

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### **5. Which of these categories would best describe your organization or unit?**

State Agency

### **6. Briefly describe your organization's mission and or scope.**

The Rhode Island Historical Preservation & Heritage Commission is the state office for historic preservation and heritage programs. The Commission identifies and protects historic and prehistoric sites, buildings, and districts by nominating significant properties to the National Register of Historic Places and the State Register; administering grants, loans, and tax credits for rehabilitation of historic buildings; and reviewing federal and state projects that affect cultural resources. We regulate archaeological surveys that take place on state property and within the state's territorial waters, and also surveys that are being doing in compliance with state or federal regulations.

### **7. Briefly describe your organization's history.**

The RIHPHC was created in 1968 by state legislation in response to the National Historic Preservation Act on 1966. Here's a link to the particular state law:  
<http://sos.ri.gov/documents/archives/regdocs/released/pdf/HP/4477.pdf>

### **8. Staffing levels:**

	<b>N/A</b>	<b>1-3</b>	<b>4-6</b>	<b>7-10</b>	<b>10+</b>
Permanent Staff					X
Contractors	X				
Interns		X			
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

### **9. Institutional member levels, if applicable:**

N/A

### **10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- Architects
- Administration / Support Staff
- Other

### **11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual decline in staffing levels.

### **12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants				X	
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys	X				
Field Excavations	X				
Permitting / Compliance				X	
Conservation	X				
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.

We need a better curation facility badly--we have a large collection of artifacts that deserve to be in an a climate-controlled facility

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole			X		
Website Presence				X	
Social Media Presence				X	
Print Publications / Newsletters					X
Digital Publications / Newsletters					X
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations	X				
Community Events			X		
Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms	X		
State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i> It's still very much a work in progress			



**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations	X	
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		X
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i> We have published state-wide surveys/introductions to some types of cultural resources, and also town by town reports, but we haven't done one for underwater resources yet.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

We are engaged in an ongoing effort to identify, survey, and manage the state's submerged cultural resources, in which we rely on the work of outside researchers and work conducted as Section 106 compliance. So our main issue is that it is taking a very long time to actually get a comprehensive picture of what resources we have! Viz legislative gaps--we have used salvage law to make a claim to a group of shipwrecks, to preclude any outside claimant taking such an action.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Various state enabling laws and regulations

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

We are very involved with offshore wind turbine projects, and are therefore keenly interested in the approaches that the Bureau of Ocean Energy Management, Regulation and Enforcement is taking toward these, like the recent regulations to guide Renewable Energy endeavors located on the OCS.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

We were recently part of the team that put together an Ocean Special Area Management Plan for RI- <http://seagrant.gso.uri.edu/oceansamp/> ; and I think that the incorporation of submerged cultural resources into the planning processes is important to the field as a whole--locating and managing these sites is a team effort that we (the state agency) can't do alone. Our own management plan for submerged cultural resources is being finalized, and other long-range plans include the possible creation of underwater preserves and the incorporation of shipwreck sites into Rhode Island's efforts to promote cultural tourism.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Our organization does not have the mandate, the funding, or the staff to directly survey archaeological sites. We therefore are forced to rely on independent researchers and other organizations to do the actual survey work. [The] greatest challenge to the field as a whole is the high cost of excavation and artifact conservation, and the need in many cases to record and gather this information and material before it is lost to the forces of nature or to looting.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

One of the outside researchers we work with here in Rhode Island is the Rhode Island Marine Archaeology Project. Their website is: <http://www.rimap.org/>

## Texas, Texas Historical Commission

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### 5. Which of these categories would best describe your organization or unit?

Federal Agency

### 6. Briefly describe your organization's mission and or scope.

The Texas Historical Commission (THC) is the state agency for historic preservation. THC staff consults with citizens and organizations to preserve Texas' architectural, archeological and cultural landmarks.

### 7. Briefly describe your organization's history.

The Texas State Legislature established the Texas State Historical Survey Committee in 1953 and tasked the agency with the purpose to identify important historic sites across the state. In 1969, in response to the looting of a 16th-century shipwreck at Padre Island (state-owned submerged land), the Texas State Legislature passed the Texas Antiquities Code. This code established the Texas Antiquities Committee for the protection, preservation, and interpretation of the publicly owned archeological and cultural resources, antiquities, and historic buildings of Texas. The Texas Legislature changed the name of the Texas State Historical Survey Committee to the Texas Historical Commission in 1973 and these agencies continued to operate separately but collaboratively until 1995. The responsibilities of the two agencies were merged in 1995 and the Texas Antiquities Committee was formally abolished.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors					
Interns					
Volunteers					X
<i>Additional Information / Clarifications:</i> The Texas Historical Commission has over 100 permanent staff and over 100 volunteers (stewards). The Marine Archeology Program is made up of one person designated the state marine archeologist. There are 10 volunteers (marine stewards) that work for the agency and an additional 1-3 student interns each semester.					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- GIS / IT Specialists
- Conservators
- Curators
- Historians
- Archivists
- Architects
- Education / Outreach Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants					X
Affiliated Foundation	X				
External Foundation	X				
Private Contracts	X				
Public Donations	X				
Individual / Member Support	X				
Other		[X]			
<i>Additional Information / Clarifications:</i> [Other:] Agency generated income from historic site visitation is about 2 to 5%. The proposed federal funds from the recently approved budget is also about 2 to 5 %.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS			X		
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance					X
Conservation	X				
<i>Additional Information / Clarifications:</i> This is a little misleading. The Inventory/GIS is integral to Permitting and Compliance. When the inventory was being developed this was a much larger percent of the work.					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

No, our organization does not currently have a conservation facility.

We had a lab for small conservation projects but recently lost use of this facility because of budget cuts.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X	X			
Website Presence	X	X			
Social Media Presence	X		X		
Print Publications / Newsletters	X	X			
Digital Publications / Newsletters	X		X		
Newspaper Articles / Editorials / Blogs	X		X		
Lectures / Presentations	X		X		
Community Events	X		X		
Educational / Training sessions (at your organization)	X		X		
Educational / Training sessions (on location)	X		X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i> This is <span style="background-color: #e0f0ff;">an</span> opinion of its effectiveness, but our agency is very involved in public outreach. Again, this will be greatly reduced due to travel budget cuts and the reduction in staff - marketing was dramatically reduced with the recent budget cuts (it was reorganized and renamed as well).					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X

State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i> The THC maintains an online database that is integrated with staff managed ArcGIS data regarding archeological sites. Any researcher can apply for registration to the site but they have to be vetted and approved by the agency			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	<b>Yes</b>	<b>No</b>
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i> We have not formally partnered with any organization or individual in its development. This dataset was begun in the 1970s and largely created by research conducted by THC. Data provided by CRM research, site discoveries, etc., are incorporated into the database as the agency learns the information.		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication				X				
Scholarly Print Publication								
Popular Digital Publication				X				
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i> The Archeology Division had a scholarly newsletter published in print and online that included contribution by staff, academic, and CRM authors. This was distributed twice and called Current Archeology in Texas - this was eliminated by recent budget cuts. The agency has a magazine, The Medallion, has been reduced from 6 issues a year to 4. The size of each issue was also reduced.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Texas is well known, especially amongst gulf states, for its leadership in underwater regulatory work. [No] management concerns [are visible] except for the potential to lose the program if more dramatic budget cuts are enacted or the agency is eliminated. The latter was proposed for the last budget session. [Preferably] adding more detail to some issues regarding presentation of data in the technical reports but this is a minor detail. As for the next question (no. 24) - there isn't a need to advocate public policy as there is currently political support for the submerged cultural resource regulations as they stand.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

I cannot account for, in such a short space of time and being new to this agency, the history of this work which is vast. Specifically in recent years, the Marine Archeology Program has added regulations to improve survey methodologies, dictate presentation of data, and added types of projects that require survey. For example pipeline installation projects and seismic work in submerged land did not originally require marine archeological survey - these were added in the late 1990s. I do not have the knowledge to discuss the work of the terrestrial division.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Not that I am aware of.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

In the field as a whole [it appears] more academic programs [are] beginning to integrate maritime history or archeology into their general curriculum. In Texas this is occurring at the undergraduate level at Texas State University, Texas A&M at Galveston, and to some degree, University of Texas Pan-American. This introduces these cultural resources to a larger audience.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

This is a very difficult and time-consuming question to address in a questionnaire. In summary, it is very difficult to achieve everything expected of the Marine Archeology Program at Texas Historical Commission with the current funding and staffing. The responsibilities of this program include review and compliance, field diving investigations, remote-sensing surveys, publication of research, management of the ArcGIS database integrated with the online Sites Atlas, maintenance of a survey boat and agency dive gear, managing a volunteer-based (marine stewards) dive program, updating underwater site information, public outreach, coordination with regional museums about underwater collections, etc., etc. There is only one permanent staff in this program. Overall[,] public awareness of the importance of underwater resources needs to be improved - this relates to both what can be learned from these sites and why they should be preserved. It is important that the marine archeological community expend a greater effort focusing on a larger audience than the academic community or private contractors. It was public support of the Texas Historical Commission that principally saved the agency from elimination this last budget [cycle]. I believe the largest public letter writing campaign to save any Texas

state agency experiencing cuts was directed at the THC. If we are unable to gain public support for state preservation programs we may lose these programs which will make it much more difficult to protect archeological sites. The most effective way to gain this support is through effective public outreach and also disseminating this work through accessible mediums. The field of archeology as a whole, as far as state regulatory management programs, may face larger problems in the future as it seems there is difficulty in reaching more ethnically diverse audiences. This is especially true in Texas which has a large Hispanic population. A more recent poll demonstrated that these groups are not effectively engaged, or take much interest in, the state's historic resources.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

[I] want to underscore that my expertise is the Marine Archeology Program. Some of the information I have presented about the agency as a whole were provided to the best of my ability with limited research. Our agency was tremendously, negatively impacted by the last budget cuts. The THC terrestrial review and compliance program was completely reorganized and the Marine Archeology Program (its state and federal review is separate) is assisting in adding terrestrial archeological project information to the online (restricted version) of the Archeological Sites Atlas as a means to help the agency run efficiently in the face of such losses. The Archeology Division of the THC is the smallest it has been since 1971. The online Archeological Sites Atlas is an important tool provided by the Texas Historical Commission for CRM firms and state/federal agencies that review and plan project work. It lists information and locations for all land and submerged archeological sites and also all reported shipwreck sites in the Texas waters. The website illustrates all terrestrial archeological surveys and excavations and will be expanded to show all marine surveys/excavations as well. Reports submitted to the agency after 2009 (or [perhaps] 2008) are available for download to registered users. Registered users include CRM firms across the country and individuals from federal and state agencies.



**Wisconsin, Wisconsin Historical Society, Maritime Preservation**


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**5. Which of these categories would best describe your organization or unit?**

State Agency

**6. Briefly describe your organization's mission and or scope.**

Preservation, protection, and promotion of Wisconsin's submerged cultural history.

**7. Briefly describe your organization's history.**

Founded in 1846 to collect, preserve, and promote primarily Wisconsin's, but also the nation's, history.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors	X				
Interns	X				
Volunteers				X	
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see moderate to rapid decline in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					X
State Funds / Grants		X			
Affiliated Foundation	X				
External Foundation	X				
Private Contracts	X				
Public Donations	X				
Individual / Member Support	X				
Other	X				
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research			X		
Inventory / GIS		X			
Field Surveys			X		
Field Excavations	X				
Permitting / Compliance	X				
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence					X
Print Publications / Newsletters			X		
Digital Publications / Newsletters					X
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events			X		
Educational / Training sessions			X		

(at your organization)					
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public	X		
Independent Researchers	X		
University/Non-Profit Affiliated Researchers	X		
Cultural Resource Management Firms	X		
State Agencies	X		
Federal Agencies	X		
Foreign Governments	X		
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication						X		
Scholarly Print Publication						X		
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Current political moves to "streamline" project permits that will eliminate or circumvent cultural resource protections. Additionally, the elimination of our program due to state and federal budget cuts.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Not yet, but potential in the near future due to deregulation to stimulate business and construction.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

For our organization, listing significant sites on the National Register of Historic Places to ensure the sites are protected under the Abandoned Shipwreck Act.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

For our organization, survival in the current fiscal/political climate. We were eliminated from the state budget in 2002 and have managed to survive on federal grant funds. Our most significant source of funding is the Department of Transportation's Transportation Enhancement grants. There is currently a bill in congress to ban archaeology and research from Transportation Enhancement funding.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**Universities**

## Clemson University, Warren Lasch Conservation Center

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### 5. Which of these categories would best describe your organization or unit?

University

### 6. Briefly describe your organization's mission and or scope.

The mission of the Warren Lasch Conservation Center is to excavate, study and conserve the Civil era submarine H.L. Hunley and associated artifacts. The goals of the archaeology team are to conduct the excavation of the submarine and related scientific studies. Publish the scientific studies, and prepare the collection for public display in future Hunley museum. The goals of the conservation team are to stabilize and conserve the H.L. Hunley and artifacts associated with the hull, and prepare the collection for public display in future Hunley museum. The goals of the research team are to conduct studies on corrosion processes, non-destructive testing, and the stabilization and conservation of metallic and non-metallic artifacts recovered from marine and terrestrial sites. In addition, to test and develop the application of sub-critical and super-critical fluids in the conservation field.

### 7. Briefly describe your organization's history.

The Warren Lasch Conservation Center (WLCC) was developed to facilitate the excavation, study and conservation of the Civil era submarine H.L. Hunley and associated artifacts, following the successful recovery of the submarine from the waters off Charleston harbor. The Center was established in a retro-fitted warehouse in the former Naval Base in Charleston, SC and was readied with equipment and staff prior to raising the submarine August 8th, 2000. Affiliated with the WLCC is the Friends of the Hunley a 501(c)(3) nonprofit organization with memberships. They were in charge of public outreach and raising private funds for the project. Since 2007, the Center has been part of Clemson University, recently becoming a subsidiary of the Clemson University Restoration Institute.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors					
Interns		X			
Volunteers		X			X
<i>Additional Information / Clarifications:</i> Number of interns vary per semester (can be more than 3). Number of volunteers vary according to specific tasks (can be in excess of 10)					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- Conservators
- Administration / Support Staff
- Other

The research team consists also of 2 chemists and 1 chemical engineer. Our research partners

(non paid) come from many different fields.

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X		X	
State Funds / Grants			X	X	
Affiliated Foundation					
External Foundation					
Private Contracts		X			
Public Donations					
Individual / Member Support		X			
Other					

*Additional Information / Clarifications:* During the early years of the Hunley Project, the funding was dominated by Federal funds, followed by State funds, and corporate contributions in terms of donation of lab and excavation equipment. Currently the staff and lab expenditures are primarily funded by State funds, with some contributions from Federal, corporate and private funds.

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		

*Additional Information / Clarifications:* We expect the State funding to remain stable in the next couple of years. The private and corporate donations vary.

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research					
Inventory / GIS					
Field Surveys					
Field Excavations					X
Permitting / Compliance					
Conservation					X

*Additional Information / Clarifications:* Staff estimated engaged in excavation/research/conservation 70%, administration/lab/other support 20%, teaching/ training and other outreach 10%.

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

We are a conservation facility, which was designed specifically to meet our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

The collection (in excess of 3600 artifacts) will be moved to a future Hunley Museum once the artifacts have been conserved..

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence				X	
Print Publications / Newsletters	X				
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs		X		X	
Lectures / Presentations	X				
Community Events					
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)					
Other #1 (please clarify below)					
Other #2 (please clarify below)					

*Additional Information / Clarifications:* Our web presence needs serious updating and improvement. We are new to outreaching with social media. Newspaper articles vary in effectiveness according to quality, target demographic and reach.

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes



**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			
Independent Researchers			
University/Non-Profit Affiliated Researchers			
Cultural Resource Management Firms			
State Agencies			
Federal Agencies			
Foreign Governments			
Other (please explain below)	X		
<i>Additional Information / Clarifications:</i> The inventory is shared with the Naval History and Heritage Command			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		
University/Non-Profit Organizations	X	
Cultural Resource Management Firms		
State Agencies	X	
Federal Agencies	X	
Foreign Governments		
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication				X				
Scholarly Print Publication						X		
Popular Digital Publication								
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i> In addition publications of professional articles and abstracts in the fields of conservation, archaeology, and material science, the Center is also affiliated with Friends of the Hunley that publishes the quarterly, popular newsletter "The Blue Light."								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Not with regards to the Hunley Project specifically.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Some of the staff are members of the International Counsel on Monuments and Sites (ICOMOS).

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No specifically.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The successful integration of archaeology and conservation in every step of our work, from the initial remodeling/outfitting and staffing of the Center, in the development of the database, and development of protocols during the excavation, conservation and research phases. The successful interdisciplinary and collaborative nature of our past and current research , which involve research partners from the Massachusetts Institute of Technology, Smithsonian Institution, University of Tennessee at Knoxville, Georgia Bureau of Investigation, Alabama Department of Forensic Sciences, Medical University of South Carolina, Armed Forces Institute of Pathology, Joint POW/MIA Accounting Command, National Medical Services, Coastal Carolina University, University of South Carolina, and College of Charleston, among other Federal, State, and private entities. Training of students in topographical scanning, photogrammetry, 3D modeling, site plan development. Our public outreach efforts. The successful and on-going testing and developing the application of sub-critical and super-critical fluids in the conservation field.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Our biggest challenges are: Diversify and stabilize our funding sources. Avoiding brain drain, i.e. maintain adequate support for highly specialized staff and students. Timely publication of results or research. Secure funding and facilities for continued training of students and research scholars.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**Coastal Carolina University, Center for Archaeology and Anthropology**


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**5. Which of these categories would best describe your organization or unit?**

University

**6. Briefly describe your organization's mission and or scope.**

To explore the archaeology and anthropology of the lowcountry of South Carolina, and to support student knowledge and faculty research in the global perspective. The Center manages an academic program and supports community outreach activities as well as faculty research projects within this theme.

**7. Briefly describe your organization's history.**

This is a new unit within the Department of History at Coastal Carolina University, which last had an archaeologist on staff in the 1990s. Maritime heritage is promoted through course offerings and research opportunities at present. It is focused on undergraduates.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors	X				
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i> Intermittent volunteers					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation					
External Foundation		X			
Private Contracts					
Public Donations					
Individual / Member Support					

Other	X			
<i>Additional Information / Clarifications:</i> We are funded through the university, which receives 6% of its budget from the state.				

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		X
External Foundation	X	
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research	X				
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance					
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility, but it does not fully meet our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence					X
Print Publications / Newsletters					X
Digital Publications / Newsletters					X
Newspaper Articles / Editorials		X			

/ Blogs					
Lectures / Presentations	X				
Community Events		X			
Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

There is very much a finders keepers attitude towards [submerged cultural resources] in the region, and state laws permit private ownership of artifacts and allow monitored recovery and exploration at archaeological sites. Individuals who do not appreciate the archaeological ramifications of their behavior, or who choose to ignore the monitoring requirements, feel a sense of ownership over sites that typically is accompanied by removal of materials from the sites or the destruction of the site in the worst cases. Some people are quite responsible though and report sites to the state underwater archaeologist.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

We are still setting up the academic program and have not got a portfolio of accomplishments or initiatives as yet.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Building an appropriately scaled program to enhance undergraduate student knowledge and experience within the framework of community engagement is our biggest challenge on the local basis, but the larger challenges of dealing with a commercially fished and disrupted seabed, widescale site disruption from casual divers, and funding pressure at all levels (especially for conservation and curation long term) are of serious concern.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## East Carolina University, Program in Maritime Studies

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### 5. Which of these categories would best describe your organization or unit?

University

### 6. Briefly describe your organization's mission and or scope.

We train graduate students to the MA level in Maritime Archaeology, History and conservation. In the last 30 years we have graduated 180+ MAs. 170 of them are employed in the field or now retired.

### 7. Briefly describe your organization's history.

The Program in Maritime Studies was founded in 1981 by William Still and Gordon Watts. It started small and has deliberately remained small. We admit 15 students each fall and 10-12 of them eventually graduate. We originally worked on North Carolina and/or Civil War sites. This effort has expanded over the years and, in the last three years, have worked on the Great Lakes, Sweden, Cyprus, North Carolina, and South Africa. Our students over that same time frame have worked in Jamaica, Canada, and numerous states, in addition to the program work. We are currently requesting implementation of a PhD in Maritime Archaeology. If approved, that program will admit its first students ca. 2015. There have been three Directors, each of whom has served roughly ten years.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff				X	
Contractors	X				
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Conservators
- Historians
- Administration / Support Staff
- We have interns as students who go to other organizations for placement

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

Many more positions than qualified candidates.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants					X
Affiliated Foundation					
External Foundation					
Private Contracts		X			
Public Donations		X			
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance					
Conservation		X			
<i>Additional Information / Clarifications:</i> Much of this participation is student thesis research or faculty research associated with teaching.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility, but it does not fully meet our needs.  
We have no collection, per se. We do have small type collections for teaching purposes

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.



**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole			X		
Website Presence		X			
Social Media Presence			X		
Print Publications / Newsletters		X			
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations		X			
Community Events			X		
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication						X		
Scholarly Print Publication								
Popular Digital Publication						X		
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Lack of interface between various state units about cultural resources. Hiring practices by state agencies. Enforcement of cultural resource legislation by local and state officials.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Regional modeling of watercraft abandonment areas and practices. Battle of the Atlantic (WW II) as interpreted by GIS and KOCO A. Planning for PhD is underway.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Biggest challenge is space. Second challenge is funding (no raises for last three years). Public awareness is another.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

Slow, but steady (fits and starts) progress, dependent on legislation, court cases, public awareness and education.

## Florida Public Archaeology Network

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### 5. Which of these categories would best describe your organization or unit?

University

### 6. Briefly describe your organization's mission and or scope.

Mission: To promote and facilitate the stewardship, public appreciation, and value of Florida's archaeological heritage through regional centers, partnerships, and community engagement. The Florida Public Archaeology Network is dedicated to the protection of cultural resources, both on land and underwater, and to involving the public in the study of their past. Regional centers around Florida serve as clearinghouses for information, institutions for learning and training, and headquarters for public participation in archaeology.

### 7. Briefly describe your organization's history.

State legislation was drafted in 2004 to establish a "Florida network of public archaeology centers to help stem the rapid deterioration of this state's buried past and to expand public interest in archaeology" (Chapter 267.145, Florida Statutes). After passage of this enabling legislation in 2004, University of West Florida President John Cavanaugh provided funds to plan and develop the Network, and appointed a Steering Committee to oversee this work. The Steering Committee carefully crafted the MOA to create a state-wide program administered by the University of West Florida. In doing so they considered a number of broad issues related to the creation of a new state-wide archaeology program in Florida. The Committee was resolute that the new Network would be collaborative with local programs operating in different regions of the state. This regional involvement was to be achieved through the operation of regional public archaeology centers by host institutions contracted by UWF to deliver the FPAN program within a specific region. The hosts provide space and related infrastructure support and via their hosting contract with UWF receive funds to hire staff and to support travel and programming. The Steering Committee was also insistent that FPAN not duplicate or compete with other archaeological program such as that of the Florida Anthropological Society and Florida Archaeological Council, that it would not be involved with enforcement of regulation or law, and that it would not conduct work that is required by Federal, State, or local preservation programs. These concerns were met by defining the goals for FPAN that focused on public outreach, assistance to local governments, and assistance to DHR. (for details on each Regional Center, see <http://www.flpublicarchaeology.org/about.php>)

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors	X				
Interns					X
Volunteers					X
<i>Additional Information / Clarifications:</i> Numbers are totals Network-wide; not all of these people are trained in maritime archaeology					

### 9. Institutional member levels, if applicable:

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Historians
- Education / Outreach Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					X
Affiliated Foundation		X			
External Foundation					
Private Contracts					
Public Donations		X			
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i> The Network is funded through the Florida Legislature, as part of the budget of the UWF; funds are disbursed to the Regional Centers as grants. Staff often seek external grants for specific projects and programs.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants	X	
Affiliated Foundation	X	
External Foundation		
Private Contracts		
Public Donations		X
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i> Depends on what you mean by "reliable!" While FPAN's overall budget is reliable, as it is buried within UWF's budget, the State Legislature can, and does, reduce the overall UWF (and all other state university's) budget which affects FPAN's overall budget.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys	X				
Field Excavations	X				
Permitting / Compliance	X				
Conservation	X				
<i>Additional Information / Clarifications:</i> "Public Interpretation and Education" is not a category - that would be 75-100% for FPAN.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence	X				
Print Publications / Newsletters	X				
Digital Publications / Newsletters	X				
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)	X				
Other #1 (please clarify below)	X				
Other #2 (please clarify below)	X				
<i>Additional Information / Clarifications:</i> Development of community engagement programs, development of interpretive strategies and attractions.					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								
Scholarly Print Publication					X			
Popular Digital Publication			X					
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i> On-line Underwater Journal, local newsletters, FPAN website, sport diving magazines and periodicals								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

While FPAN has no authority or jurisdiction for management or enforcement, FPAN does assist the FL Division of Historical Resources, which does have this authority and jurisdiction. The major problems, in our opinion, facing the state are: - lack of staffing and funding to adequately carry out legislatively mandated organizational mission and goals - legislatively allowed "treasure hunting" and commercial salvage of historic shipwrecks in Florida waters

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

It's more of a continual education process to inform officials of threats to [submerged cultural resources].

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No - changes to laws wouldn't affect FPAN, although could affect our educational efforts.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

FPAN has developed educational programs directed toward diving training agencies and to sport divers. The Heritage Awareness Diving Seminar (HADS) is targeted to diving Instructors, Instructor Trainers, and Divemasters - it is essentially underwater historic preservation and provides these diving educators with the information and materials (powerpoints, etc) to teach their divers how to proactively protect underwater cultural resources, just as they are taught to protect and conserve underwater natural resources such as coral reefs and manatees. The Submerged Sites Education & Archaeological Stewardship (SSEAS) program is targeted to divers who are looking for a way to become involved in underwater archaeology and submerged resources investigation. It teaches a basic non-disturbance course, including how to make a simple site plan and how to fill out a Florida Master Site File form for shipwrecks, then asks the trained divers to investigate AWOIS targets to determine if they are historic or not. If so, a Site File form is prepared and submitted to the state. These divers also are empowered to act as monitors for the state's Underwater Archaeological Preserve system.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

For FPAN, the on-going challenge is meeting the needs of the public - as FPAN grows in public awareness, more and more demands are put on limited staff numbers and time. Only a few FPAN staff are maritime archaeologists, so we find ourselves pulled in many directions simultaneously. Ultimately, something, or some programs, must inevitably suffer. For maritime heritage as a whole, public awareness levels and the portrayal of archaeology in the media is a major concern. We find that many people do not understand the difference between archaeology and treasure hunting/salvage, and we fight this perception everyday. Much of this confusion is propagated by the media.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Indiana University of Pennsylvania, Department of Anthropology

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### 5. Which of these categories would best describe your organization or unit?

University

### 6. Briefly describe your organization's mission and or scope.

"Indiana University of Pennsylvania is a leading public, doctoral/research university, strongly committed to undergraduate and graduate instruction, scholarship, and public service. Indiana University of Pennsylvania engages students as learners and leaders in an intellectually challenging, culturally enriched, and contemporarily diverse environment. Inspired by a dedicated faculty and staff, students become productive national and world citizens who exceed expectations personally and professionally."

### 7. Briefly describe your organization's history.

"Indiana University of Pennsylvania was founded as Indiana Normal School in 1875, with 225 students and one building, John Sutton Hall. In 1920, the school was awarded the right to grant degrees. Its name changed to the State Teachers College at Indiana, Pa., and its ownership changed to the Commonwealth of Pennsylvania. Name changes followed in 1959, when it became Indiana State College, and 1965, when it became Indiana University of Pennsylvania and initiated its first doctoral program. In 1983, the Pennsylvania State System of Higher Education was created. Indiana University of Pennsylvania now ranks as the largest of the State System's fourteen member institutions, and the only one authorized to grant doctoral degrees." Maritime archaeology at IUP was initiated in 2010, with the first field work occurring in 2011. Previously, there was some archaeological research in coastal studies through the Department of History.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff				X	
Contractors	X				
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i> The above number pertains to Anthropology faculty. Anthropology faculty involved in maritime archaeology = 1. Additionally, there is a loose group of three faculty (Anthropology, History, and Geoscience) who focus on near-shore archaeological sites. The above numbers do not include graduate or undergraduate students involved in maritime research (currently 2 graduate students).					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Historians



- Archivists
- Architects
- Education / Outreach Specialists
- Administration / Support Staff
- Other

Above info pertains to IUP in general. Anthropology includes UW archaeologists, terrestrial archaeologists, CR managers, GIS/IT specialists, Education specialists, admin staff, and other (cultural anthropologists, students).

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants			X		
Affiliated Foundation	X				
External Foundation		X			
Private Contracts		X			
Public Donations		X			
Individual / Member Support	X				
Other			X		

*Additional Information / Clarifications:* Majority of funds come from state and student tuition. Research is funded through contracts (CRM-type) and grants (federal, state, foundation, etc.)

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts		X
Public Donations	X	
Individual / Member Support		
Other	X	

*Additional Information / Clarifications:*

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			

Field Excavations		X			
Permitting / Compliance		X			
Conservation					
<i>Additional Information / Clarifications:</i> Range of academic and compliance/inventory archaeological projects undertaken by faculty and students.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence					X
Print Publications / Newsletters		X			
Digital Publications / Newsletters					X
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations		X			
Community Events		X			
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i> Much of our success is based on the ability to recruit students, consequently, outreach is very important to us. Additionally, our education mandate extends beyond the classroom so we attempt to engage the public.					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication						X		
Scholarly Print Publication				X				
Popular Digital Publication				X				
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i> Faculty publish in discipline specific scholarly journals (e.g. PA Archaeologist, Historical Archaeology, etc.). They also publish in organization newsletters (e.g. Archaeological Record, Anthropology News). We also maintain a website with department news and events								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

We are not currently facing any policy concerns (unless you count the need for three different permits from the state of NY to excavate underwater on their property, but that is not a particularly broad concern).

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Organization: Establishing maritime archaeology fieldwork. Hope to build on this work to train a small number of students in the basics of maritime archaeology within the context of our applied archaeology MA program. Field: The publication of the Oxford Handbook of Maritime Archaeology [...]. Otherwise it is the continued integration of maritime archaeology into archaeology in general.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Organization: Funding and staffing. We have only one maritime archaeologist on staff, so that training and research is limited. Additionally, there is limited funding at all levels for maritime archaeology work. All research must be scheduled around a heavy teaching load (4 classes/semester) and summer responsibilities (field school, etc.). Field: The distinction between, and pros/cons of, archaeological work and for-profit work. The continued blurring of the lines between compliance based archaeology and salvage of possibly deteriorating ships will be challenge. The inability of archaeologists to make their case to the public (unwillingness, lack of understanding, lack of communication skills, etc.) will only make this more of a challenge.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Indiana University, Office of Underwater Science

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### 5. Which of these categories would best describe your organization or unit?

University

### 6. Briefly describe your organization's mission and or scope.

Research and interpretation of submerged cultural and biological resources emphasizing park development and sustainable use.

### 7. Briefly describe your organization's history.

Established 1992 as multidisciplinary underwater research unit for Indiana University, with emphases on underwater archaeological research to establish shipwrecks as Marine Protected Areas, protecting significant cultural and associated biological resources, while encouraging sustainable tourism use of the site.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors					
Interns			X		
Volunteers				X	
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

101-250

\*Modified to [N/A] given university status

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Cultural Resource Managers
- Conservators
- Education / Outreach Specialists
- Administration / Support Staff

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect to see gradual growth in staffing levels.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

Even distribution of qualified candidates and available positions.

### 13. Please note your primary sources of funding.

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants					
Affiliated Foundation					
External Foundation				X	

Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation	X	
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS					
Field Surveys		X			
Field Excavations					
Permitting / Compliance		X			
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility, but it does not fully meet our needs.  
New conservation lab being built at The Children's Museum for our conservation needs

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.  
Varies with projects

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence		X			
Social Media Presence				X	

Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events		X			
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			
University/Non-Profit Affiliated Researchers			
Cultural Resource Management Firms			
State Agencies			
Federal Agencies			
Foreign Governments	X		
Other (please explain below)			
<i>Additional Information / Clarifications:</i> Dominican Republic shipwreck database			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies		
Federal Agencies		
Foreign Governments	X	
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication							X	
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

International protection for shipwreck from looting and commercial treasure hunting

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

Marine Protected Areas as Living Museums in the Sea, Dominican Republic model, funded by USAID

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

US Abandoned Shipwreck Act 1987 Florida Keys National Marine Sanctuary Cultural Resources Management

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

UNESCO pending in Dominican Republic.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Establishment of Living Museums in the Sea model for protection of significant underwater cultural and associated biological resources.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Public awareness to value of cultural resources in situ, rather than recovery by science or commercial salvage.



**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

Archaeologists need to develop more multidisciplinary projects, which demonstrate the value of the professional research on significant shipwrecks sites, and offer alternatives to recovery efforts.

## Luther College, Department of Classics

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### 5. Which of these categories would best describe your organization or unit?

University

### 6. Briefly describe your organization's mission and or scope.

The Department of Classics at Luther College focuses on the study of the languages, literature, culture and archaeology of the ancient Greek and Roman world. Each year we graduate between 3 and 12 majors. Many of majors seek an additional major in a related field, such anthropology, Biblical languages, or History. This year, two of our majors are applying to graduate schools.

### 7. Briefly describe your organization's history.

Luther College (founded by immigrant Norwegians in 1861) is a private four-year Liberal Arts college of about 2,600 students. Today, Luther offers more than 60 majors and pre-professional and certificate programs leading to the bachelor of arts degree. The Department of Classics at Luther has existed since the college's foundation. From the start the college emphasized intensive training in Biblical languages (ancient Greek, Latin and Hebrew) for all students as preparation for seminary or parish education. Over the years, Luther broadened its mission and scope, so that today the ancient language requirements apply only to interested students and majors in Classics. Over the past ten years, the Classics Department has expanded its course offerings beyond Greek and Latin language classes to include courses on the history, culture and archaeology of the Greek and Roman world.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors					
Interns					
Volunteers					
<i>Additional Information / Clarifications:</i> 1 Adjunct Professor, Classics Department					

### 9. Institutional member levels, if applicable:

101-250

\*Modified to [N/A] given university status.

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists

In the Department of Classics we employ two full-time Classicists, among which is one underwater archaeologist.

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					X
<i>Additional Information / Clarifications:</i> As we are a private institution, our primary source of funding is student tuition.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other	X	
<i>Additional Information / Clarifications:</i> Our funding source (private tuition) has remained stable for the past 141 years.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS					
Field Surveys				X	
Field Excavations		X			
Permitting / Compliance					
Conservation					
<i>Additional Information / Clarifications:</i> [There is only one] faculty member at Luther College who participates in underwater archaeological research. [The] research focus is the Black Sea, where [in collaboration with the] University of Rhode Island [the team has been] conducting underwater surveys and excavation since 2006.					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence		X			
Social Media Presence		X			
Print Publications / Newsletters		X			
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs				X	
Lectures / Presentations		X			
Community Events		X			
Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

N/A

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Luther hired [an underwater archaeologist] in 2011 both to teach the course offerings in Classics and to support [...] research in underwater archaeology. Considering that the Classics departments of most four-year Liberal Arts colleges do not employ faculty engaged in research on submerged cultural resources, this may be seen either as an anomaly or as an accomplishment. For the first time, in 2012, Luther will offer an entry-level course on underwater archaeology. [...] Among the most important recent achievements is the non-commercial survey and discovery of shipwrecks in deep water off the coast of the United States, Europe, the Mediterranean Sea and the Black Sea. Twenty years ago, these wrecks were largely inaccessible to non-commercial explorers. In this context, the federal government's (sc. NOAA's) recognition of underwater archaeology as a fundamental aspect of ocean exploration is notable.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

The greatest challenge facing my organization (Luther College, Department of Classics) is the maintenance of faculty in Classics. Classics departments all over the country have been shrinking for the past few decades as educational institutions shift resources toward the hard sciences and away from the humanities. Our challenge is to remain relevant, to collaborate with other disciplines to show the interdisciplinary nature of Classics, and to increase the enrollment in our courses. Maritime heritage as a whole would do well to initiate public awareness projects that broadcast the findings and results of a field populated mostly with specialists. Our work by nature is largely inaccessible to the public. Popular cable channels go some way in broadcasting significant and exciting discoveries, but their production is not initiated by the specialists, and

specialists often have no control over their story lines and content. A good model of public awareness and accessibility of findings in the field of maritime heritage is the Institute for Exploration's live coverage of oceanographic expeditions aboard the E/V Nautilus ([www.nautiluslive.org](http://www.nautiluslive.org)).

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Texas A&M University, Center for Maritime Archaeology and Conservation

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### 5. Which of these categories would best describe your organization or unit?

University

### 6. Briefly describe your organization's mission and or scope.

The Center for Maritime Archaeology and Conservation (CMAC) was created in May of 2005 by the Texas A&M University (TAMU) Board of Regents to further the University's nationally- and internationally-recognized leadership in nautical archaeology. CMAC complements the academic training provided by the Anthropology Department's Nautical Archaeology Graduate Program (NAP) by providing a focal point for research and scholarly interaction. Its goals are met by supporting faculty and student projects (both in the field and in the laboratory), by increasing the visibility of research taking place at TAMU, and by promoting cooperative studies of shipwrecks and maritime-related archaeological sites around the world. The Center works closely with the independent, non-profit Institute of Nautical Archaeology (INA), which is also located at TAMU.

### 7. Briefly describe your organization's history.

CMAC has only existed as an institutional entity since 2005, but its faculty and laboratories got their start in 1976 when TAMU founded the Nautical Archaeology Graduate Program in 1976. The labs, faculty, staff, and graduate students have expanded over the years to their present form. The Center's facilities currently consist of eight TAMU-based laboratories that reflect the varied expertise and research interests of faculty, staff, and students. Seven are housed exclusively on the main campus, and include the Old World Lab, the New World Lab, the Ship Model Lab, the J. Richard Steffy Ship Reconstruction Lab, the Archaeological Preservation Research Lab, the Archaeo-Genomics Lab, and the Wilder Imaging Lab; the eighth, the Conservation Research Lab (CRL) is divided between a teaching lab on campus and a two-building complex located at Texas A&M's Riverside Campus in Bryan, Texas.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff				X	
Contractors			X		
Interns					X
Volunteers					X
<i>Additional Information / Clarifications:</i> CMAC permanent 'staff' consists of seven professors, four 'soft money' staff (as well as support book-keeping staff from the Anthropology Department, and a fluxuating number of 'interns' or 'volunteers' who consist mainly of TAMU Nautical Archaeology Program graduate students.					

### 9. Institutional member levels, if applicable:

0-10

\*Modified to [N/A] given university status.

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Conservators
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual decline in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants			X		
Affiliated Foundation					
External Foundation					
Private Contracts		X			
Public Donations					
Individual / Member Support		X			
Other					
<i>Additional Information / Clarifications:</i> Highly variable. Faculty funded by the university, CMAC staff by soft money from federal, state, and private contracts, some funding from academic research chairs provided by 50/50 private donors and university matching money.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		
External Foundation		
Private Contracts		X
Public Donations		
Individual / Member Support	X	
Other		
<i>Additional Information / Clarifications:</i> The chairs provide the only reliable (and small) source of funding, the rest depends on year-to-year awards/contracts.		



**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS					
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance					
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

CMAC has one of only a handful of archaeological artifact conservation facilities in the country, and is largely supported by contracts through the lab.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

Most or all of the materials we deal with go back to the state, museum, or country of origin. We do not have more than small comparative collections and a few ship models. We do, however, archive in labs and offices a considerable amount of field data.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence			X		
Print Publications / Newsletters	X				
Digital Publications / Newsletters				X	
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations	X				
Community Events		X			
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)	X				

Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i> CMAC has two principal objectives: promotion of archaeological research and conservation, and education of students and the wider public on the field of nautical archaeology.					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers	X		
University/Non-Profit Affiliated Researchers	X		
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i> We do not have extensive regional databases, but we do archive a considerable amount of information on the wrecks we find through survey, and the wrecks we excavate.			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations	X	
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication					X			
Scholarly Print Publication					X			

Popular Digital Publication								
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i> CMAC NEWS & REPORTS is intended for both popular and scholarly audiences.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

1) Protection of submerged cultural resources around the world. Depredations by treasure salvors, souvenir-seekers, and construction/disturbance are steadily eroding our resource base. 2) Funding cuts on the federal and state level will provide less protection, oversight and management of archaeological sites of all types. 3) Some of our faculty have expressed concerns about misguided but well-meaning attempts by professional colleagues to shut down ALL shipwreck excavations in order to protect wrecks (the recent UNESCO initiative). We will not advance as a discipline if we deny future generations of archaeologists a chance to conduct field research.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Advising or testifying on the creation or implementation of state and federal laws in US, and advising outside countries on management or protection laws.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Many countries where CMAC scholars have worked in the past, or at present, are less receptive to hosting research by outside (non-native) scholars. This has the potential to stifle future scholarly interaction, which benefits no one.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

TAMU-CMAC maritime archaeologists, both faculty, staff, and students, work around the world extensively. Thirty-five years of shipwreck excavation and publication have established College Station as a center for maritime research. The ongoing faculty research includes: Dr. Shelley Wachsmann (the DANAOS Deep-Water Survey, eastern Mediterranean), Dr. Cemal Pulak (the Ulu Burun and Yenikapi Shipwreck Excavations and Kadirga Galley Study, Turkey), and Dr. Deborah Carlson (Kizilburun and Tektaş Burnu Shipwreck Excavations, Turkey), Dr. Kevin

Crisman (steamboat Heroine study and the War of 1812 Wrecks project, United States), Dr. Filipe Castro's (Iberian and Renaissance-era Ships research, Caribbean and Europe), Dr. Donny Hamilton 1(692 Sunken City of Port Royal Project and Mardi Gras Wreck excavation, Caribbean and Gulf of Mexico).

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding and staffing. Support from the State of Texas (via the university) is dwindling, making it particularly difficult to fund graduate student assistantships and research, the bedrock of our work. We anticipate that the 'soft money' for conservation and research contracts will be harder to find in the next few years with the extensive state and federal cuts, making it difficult to support the small staff that we have.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**Texas A&M University, Department of Anthropology, Nautical Archaeology Program**

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**5. Which of these categories would best describe your organization or unit?**

University

**6. Briefly describe your organization's mission and or scope.**

The mission of the Nautical Archaeology Program at TAMU is to provide a well-rounded education in nautical archaeology to the students. The history of seafaring, history of ship construction, and conservation of recovered ship hull and artifacts are emphasized. Working integrated with the Nautical Archaeology Program, the Center for Maritime Archaeology and Conservation is the research arm of TAMU. Surveys and excavations are conducted through CMAC and the affiliated Institute of Nautical Archaeology which is located at TAMU. The three, NAP, CMAC and INA form a research team that tends to conduct complete excavations of the more significant shipwrecks. However, while most of NAP/CMAC and INA's research and excavations have concentrated on shipwreck, ports such as Port Royal, Jamaica have been intensely excavated as well.

**7. Briefly describe your organization's history.**

The Institute of Nautical Archaeology, founded by Dr. George Bass in 1973, affiliated with TAMU in 1976 and the Nautical Archaeology Program was founded the same year. The Center for Maritime Archaeology and Conservation was founded in 2004 and consists of 8 research laboratories -- Conservation Research Laboratory, Archaeological Preservation Research Laboratory, Old World Laboratory, New World Laboratory, Steffy Ship Reconstruction Laboratory, Wilder Graphics Laboratory, Ship Model Laboratory, and Genomics Research Laboratory. NAP now has seven faculty -- three concentrating in the Old World, and four that concentrate on the New World. All things considered, TAMU is probably the largest nautical archaeology research center and is one of the few such organizations that works both in the Old World and the New World and has also emphasized the importance of conservation. Presently, NAP, INA, and increasingly CMAC are acknowledged as being leaders in the field of nautical archaeology. Some of the most significant excavations have been excavated and published in the Nautical Archaeology Series at Texas A&M University Press. No other consortium has the array of research, specialized laboratories, book series, and substantial endowments to support the research. Combined with that are the graduate students who form the work force and undertake much of the analyses, as well as publications. .

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors					
Interns					X
Volunteers			X		
<i>Additional Information / Clarifications:</i> Interns - graduate student					

**9. Institutional member levels, if applicable:**

1000+

\* Modified to [N/A] given university status

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- Conservators
- Curators
- Administration / Support Staff

All are present at TAMU and available if needed

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants		X			
Affiliated Foundation		X			
External Foundation		X			
Private Contracts		X			
Public Donations		X			
Individual / Member Support			X		
Other				X	
<i>Additional Information / Clarifications:</i> Other = Substantial endowments held by INA and CMAC					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation	X	
External Foundation	X	
Private Contracts	X	
Public Donations		X
Individual / Member Support	X	
Other	X	
<i>Additional Information / Clarifications:</i> Other = Endowment proceeds		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations			X		
Permitting / Compliance		X			
Conservation			X		
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

Also do considerable contract conservation for other research entities across US and Caribbean

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

The Department has curation facilities available to us, but our policy is not to keep any artifacts. All go to a state, museum, or country designated facility. Thus we have minimum curation needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence	X				
Social Media Presence	X				
Print Publications / Newsletters	X				
Digital Publications / Newsletters	X				
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers			X
University/Non-Profit Affiliated Researchers	X		
Cultural Resource Management Firms		X	
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i> All the NO's might be consulted, but our site database is pretty much just in-house, but has lots of input from all the no's.		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication						X		
Popular Digital Publication					X			
Scholarly Digital Publication				X				
<i>Name of Publication(s) / Additional Information:</i> CMAC News and Reports, Nautarch.tamu.edu web site - schedule varies considerably from year to year -- but is continuous in some form or fashion throughout the year.								



**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Main concern has been considerably more restricted permitting procedures both in the United States and especially in foreign countries (e.g. Turkey) where nationalist feelings lead to restrictions against outside researchers, creating numerous roadblocks and often charging excessive fees and demanding financial subsidies of various kinds. Also, all too often the UNESCO accord of "in situ preservation" is cited as a reason for not granting permits, thus stymieing attempts to excavate.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

Being part of a state university, we have to go through channels to 'campaign'. We can voice individual opinons but not state policies for any state entity.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Possibly. [Most] of the work is done in close coordination with state governments or foreign countries so policies are worked out before [hand]. There are problems of nationalism and negative feeling on foreign researchers working in [certain] countries. And as mentioned above, while the UNESCO shipwreck protection accord was meant to protect shipwrecks, all too often is [presented as] the rationale for doing nothing.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Main accomplishments: on-going research on the Uluburun Shiipwreck, considered to be one of the major archaeological projects of the 20th century. Finishing the excavation on the Heroine Steamboat in the Red River in Oklahoma. Going to Turkey this summer to finish the recovery of the column drums from the Kizilburun shipwreck Conducting the Mardi Gras Excavation and getting the report. With the superb direction of two excellent graduate student put out the Oxford Handbook of Maritime Archaeology coming out in July 2011. In final stages of conserving the hull of the Belle in the largest archaeological freeze drier in the US (World?). Undertaking the conservation of the Westfield material from Galveston, TX. More books in the TAMU Nautical Arcaeological Series have been accepted and some are coming off the press. Now, going to Italy and then Croatia to see about arranging new excavation projects. Interesing openings and offers appear to be developing in Cuba. In my opinion, the most recent achievement of the field as a whole is the Oxford Handbook of Maritime Archaeology, for it clearly describes marittime

archaeology, heritage, survey, and conservation as it stand now and what is going on across the world.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Even with the TAMU maritime/nautical consortium's (NAP, INA, CMAC) international reputation and endowed funding, money to conduct large, long term projects are hard to come by and getting permits is becoming more difficult. Being part of a major university, a certain level of funding is assured (it has dropped), and we are not in danger of losing any faculty. The staff of the conservation laboratory are all on soft money and if new projects are not found, then there is a definite possibility we will have to let some go. Already, we had to reduce the number of graduate assistants. If the economy improves, we will survive pretty much intact, if not then we will have to downsize considerably. The major public awareness is to educate the public on the difference between archaeologists and treasure hunters. Thus far, we have not made a major impact on the public perception. That is why major publications such as the Oxford Handbook of Maritime Archaeology can help educate the public.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

[No Response]

## The George Washington University, Capitol Archaeological Institute

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### 5. Which of these categories would best describe your organization or unit?

University

### 6. Briefly describe your organization's mission and or scope.

CAI focuses on : 1) Washington D.C. area archaeology; 2) International archaeology and resource mgmt.

### 7. Briefly describe your organization's history.

Formed in 2009. But build on a very long history of archeological work icluding collaborations with Smithsonian that date to early 1900's.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff				X	
Contractors					
Interns			X		
Volunteers				X	
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

0-10

\*Modified to [N/A] due to university status

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Historians
- Education / Outreach Specialists
- Administration / Support Staff

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect to see moderate to rapid growth in staffing levels.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

More qualified candidates than available positions.

### 13. Please note your primary sources of funding.

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants					

Affiliated Foundation					
External Foundation		X			
Private Contracts		X			
Public Donations					
Individual / Member Support					
Other		X			
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation	X	
Private Contracts	X	
Public Donations		
Individual / Member Support	X	
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS					
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance					
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence			X		
Social Media Presence					
Print Publications / Newsletters				X	
Digital Publications / Newsletters				X	
Newspaper Articles / Editorials / Blogs					
Lectures / Presentations		X			
Community Events			X		
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

\* Modified to N/A given answer to #19.

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication						X		
Popular Digital Publication								
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Our focus is on the challenges in developing country contexts--especially Africa. The challenges run the gamut.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Mozambican and South African legislation.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Our most important achievement has been the promotion of a volunteer-based model that offers an economically sustainable and development-beneficial alternative to treasure hunting in the developing world context.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Long-term (sustainable) funding

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**University of Connecticut, Avery Point, Maritime Studies Program,**


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**5. Which of these categories would best describe your organization or unit?**

University

**6. Briefly describe your organization's mission and or scope.**

UConn's Maritime Studies program provides an undergraduate, liberal arts major in "Maritime Studies" and also offers a minor in "Maritime Archaeology."

**7. Briefly describe your organization's history.**

UConn's Maritime Studies program was approved and began offering courses in fall 2003.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors		X			
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i> Three faculty members are associated with MAST and various other faculty members and adjunct instructors contribute other courses					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Other

Faculty in any of these fields: History, English, Geography, Anthropology (including archaeology), Economics, Political Science.

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					

Other					X
<i>Additional Information / Clarifications:</i> UConn has state support and income from tuition. The Maritime Studies program does not have its own budget, so I can't answer this. It is, by design, 'free' to the university, having no administrative support and no designated funding. Various faculty members contribute courses toward the major.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other	X	
<i>Additional Information / Clarifications:</i> See above answer to number 13.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance					
Conservation					
<i>Additional Information / Clarifications:</i> Research in our 'organization' is the research done by individual faculty members. At the moment we have faculty members in three fields: English, history and archaeology, so [...] the checked areas are covered by the research done by the three individuals.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

We have no collection. Do you assume that a maritime heritage organization should?

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**



	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X		X		
Website Presence	X			X	
Social Media Presence					X
Print Publications / Newsletters					X
Digital Publications / Newsletters					X
Newspaper Articles / Editorials / Blogs					X
Lectures / Presentations	X		X		
Community Events	X	X			
Educational / Training sessions (at your organization)	X	X			
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Maritime Studies at UConn Avery Point is interested in cultural resource management only as something we introduce our students to in certain classes/as a topic of curricular content.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

This survey seems to have a much narrower definition of "maritime heritage" than is embraced by UConn's Maritime Studies program. We would identify our most important recent accomplishments as educational outcomes for our students. [Certain members of] of UConn's Maritime Studies program would like to see greater awareness, on the part of UConn students, the citizens of Connecticut, and the public in general, of the importance of the ocean to people in the past, present and future.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

The greatest challenges for our Maritime Studies program relate to funding, staffing and constraints in our institutional setting. We have limited numbers of faculty associated with our program; we have no administrative support at all; and our campus does not have dormitories, limiting our ability to recruit students from far away. We also face challenges that derive from our co-located with the university's Department of Marine Science, namely a second-class status relative to the natural sciences. The parallel interdisciplinary science major has many more faculty members, staff support, better facilities, etc.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

Although our program faces significant practical challenges, it is clear to me that the societal need for better understanding of the relationship between people and the oceans is increasing, and will continue to increase. Therefore, I expect the need for, and the recognition of, a broadly interdisciplinary approach to the maritime world that employs the tools of the humanities and social sciences -- as our program does -- will grow.

**University of Maine, School of Marine Sciences**


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**5. Which of these categories would best describe your organization or unit?**

University

**6. Briefly describe your organization's mission and or scope.**

Education, research, community service.

**7. Briefly describe your organization's history.**

Established in 1865, typical state university. Interest in maritime history, archaeology, and other maritime studies has grown and ebbed with the personal interests of faculty.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors					X
Interns					X
Volunteers					X
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Curators
- Historians
- Archivists
- Education / Outreach Specialists
- Administration / Support Staff
- Other

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual decline in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants		X			
Affiliated Foundation		X			
External Foundation					
Private Contracts		X			
Public Donations					
Individual / Member Support			X		
Other		X			
<i>Additional Information / Clarifications:</i> The survey software demanded I answer this, but I do not know the percentages.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		X
External Foundation		X
Private Contracts		X
Public Donations		X
Individual / Member Support		X
Other		X
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research				X	
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance		X			
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility, but it does not fully meet our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence		X			
Print Publications / Newsletters		X			
Digital Publications / Newsletters	X				
Newspaper Articles / Editorials / Blogs	X				
Lectures / Presentations	X				
Community Events		X			
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)	X				
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication				X				
Scholarly Print Publication				X				
Popular Digital Publication								
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Currently we have only one faculty member who is interested, he will retire soon, and probably will not be replaced with someone interested in it.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

UMaine's most recent maritime heritage project was the Nottingham Galley site at Boon Island in the 1990s. The most important achievement for the field has been the slow but steady increase of the public's realization that maritime heritage is important. Continued efforts are needed, there is a long way to go and back-sliding will occur, but one can see a change created by past efforts. One of the reasons, or maybe one of the achievements, is the increase in people educated at all levels of maritime studies—from students taking one course to new PhD's.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Public awareness is still the main challenge. With it, one can get funding, both private and public, and protective management laws and regulations.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**University of Miami, Rosenstiel School of Marine & Atmospheric Science, Division of Marine Affairs & Policy**

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**5. Which of these categories would best describe your organization or unit?**

University

**6. Briefly describe your organization's mission and or scope.**

Graduate education in marine cultural resource management. Consulting in marine cultural resource management

**7. Briefly describe your organization's history.**

Created in 1983

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors		X			
Interns		X			
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Education / Outreach Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts			X		



Public Donations		X			
Individual / Member Support		X			
Other		X			
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		X
Public Donations	X	
Individual / Member Support	X	
Other	X	
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance		X			
Conservation	X				
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence			X		

Social Media Presence					X
Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations		X			
Community Events			X		
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)				X	
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication						X		X
Scholarly Print Publication							X	
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i> Annual Report								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Florida's management of [submerged cultural resources] is slowly improving under the current State Archaeologist.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Proposed amendments to FL Statue 1A-31 (2008-09)

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Academic training of graduate students in [submerged cultural resource management].

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Threat to program by changing academic administrations.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**University of South Carolina, South Carolina Institute of Archaeology and Anthropology**

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**5. Which of these categories would best describe your organization or unit?**

University

**6. Briefly describe your organization's mission and or scope.**

The South Carolina Institute of Archaeology and Anthropology (SCIAA) was established in 1963 as a University of South Carolina research institute and a State cultural resource management agency. As the latter, it serves as the main State agency concerned with South Carolina's Prehistoric and Historic Archaeology, and its discovery, study, revelation, and official safekeeping at a curatorial facility. As a University research institute, SCIAA initiates and conducts a broad range of field research and collections research throughout the State, participates in a very wide range of USC activities and duties, and contributes to the University infrastructure, and the USC publication series.

**7. Briefly describe your organization's history.**

See #6.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors			X		
Interns			X		
Volunteers					X
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Historians
- Archivists
- Education / Outreach Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants					X
Affiliated Foundation		X			
External Foundation	X				
Private Contracts		X			
Public Donations		X			
Individual / Member Support	X				
Other	X				
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants	X	
Affiliated Foundation		X
External Foundation		X
Private Contracts		X
Public Donations		X
Individual / Member Support		X
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS				X	
Field Surveys			X		
Field Excavations		X			
Permitting / Compliance		X			
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.  
Currently expanding and upgrading the curation facility to meet federal standards.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence		X			
Print Publications / Newsletters	X				
Digital Publications / Newsletters	X				
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations	X				
Community Events		X			
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i> Part of SC State Site Files. [Underwater] sites exempt from [Freedom of Information Act] requests.			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms		X
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication					X			
Scholarly Print Publication						X		
Popular Digital Publication				X				
Scholarly Digital Publication					X			
<i>Name of Publication(s) / Additional Information:</i> Legacy Newsletter, survey and site investigation reports.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Main concerns: Dwindling funding; Submerged cultural resources importance taking a back seat to development; Current legislation does not specifically address submerged logging issues that are beginning to loom large as the economy tanks.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

Not a good political climate to introduce legislation that can be interpreted as restrictive by the public and legislature.

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Drafted the SC Underwater Antiquities Act of 1991 (amended 2001) (SCCL 54-7-610 et seq.)

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Formally placed under the College of Arts and Sciences in the University which took us out of the spotlight of the Governor who was trying (as was the previous governor) to dismantle the institute and spread our offices among other state agencies. Receiving a record number of Federal grants in the past few years. Nominated two Submerged Cultural Resource Heritage Trails to the Federal Marine Protected Area Program (Accepted). Revitalization of the Sport Diver Archaeology Management Program, the Maritime Research Division's main vehicle for interacting with the diving public. Future involves ramping up the public education aspects of the Division, which [is viewed] as the single most important achievement in the field as a whole in recent years.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding: Our Institute is pared down to basic funding levels now with more cuts in store. The reduction in funding then precludes hiring more staff and we actually lose staff through attrition. To retain a vitally necessary position after a person leaves or retires we currently have to provide intense justification. Reduction in funding erodes every level of the organization. Receiving grants and private funding can only go so far to alleviate the loss of reoccurring funding necessary to maintain a cultural resource agency. Public Awareness and Education: One of the greatest challenges facing our agency and the field as a whole is educating the public of the importance of preserving our submerged cultural heritage and demonstrating to the public that we (archaeologists, cultural resource managers, etc., and the public alike) must work together to preserve our submerged legacy.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response



## University of West Florida, Anthropology Department

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### 5. Which of these categories would best describe your organization or unit?

University

### 6. Briefly describe your organization's mission and or scope.

As the only university in Northwest Florida, the University of West Florida combines the advantages of a collegiate culture with the capacity for high quality scholarship and graduate programs. Dedicated to helping students realize their full potential, we favor small classes with fully qualified professors who deliver personalized, caring and innovative education at both undergraduate and graduate levels. Although UWF officially maintains the status of a moderate-sized, regional comprehensive university, many UWF programs and faculty members have achieved national prominence. UWF's research enterprise emphasizes applied research, simultaneously creating opportunities for student engagement and growth. By pursuing and nurturing mutually beneficial community partnerships, UWF enhances the educational, cultural and economic development of the region and beyond.

### 7. Briefly describe your organization's history.

In 1955, the Florida Legislature authorized the State Board of Education to locate a state university in Escambia County. Following a feasibility study which demonstrated the need for an institution of higher education in Northwest Florida, funds were allocated for the development of the University of West Florida. UWF became the sixth state university of the State University System of Florida, which today consists of eleven institutions of higher learning. Ground was broken on April 16, 1965, and in the same year the Chambered Nautilus was adopted as the official UWF emblem. The initial building program, consisted of an administration classroom complex, library, Commons building, science complex, humanities building, audiovisual facility, utilities building and 15 student housing buildings accommodating approximately 500 resident students. Current facilities at UWF include: 35 academic buildings, 21 student services facilities, 25 dormitories, two university village student apartment complexes and 20 plant support facilities. In 1997, 600 additional acres were acquired which brought the Pensacola campus to 1,600 acres, the second largest main campus in the State University System.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors	X				
Interns				X	
Volunteers			X		
<i>Additional Information / Clarifications:</i> This answer is based on the department, institute, and FPAN. We do not have interns, but we have graduate asisstants.					

### 9. Institutional member levels, if applicable:

1000+

\*Modified to [N/A] due to university status

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Historians
- Archivists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants					X
Affiliated Foundation					
External Foundation					
Private Contracts		X			
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		X
Private Contracts		X
Public Donations		X
Individual / Member Support		X
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research			X		
Inventory / GIS			X		
Field Surveys			X		
Field Excavations			X		
Permitting / Compliance		X			
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence			X		
Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations		X			
Community Events		X			
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i> Except for state reporting requirements, we do not give out specific site location information.			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies	X	
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		X
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								
Scholarly Print Publication					X			
Popular Digital Publication					X			
Scholarly Digital Publication					X			
<i>Name of Publication(s) / Additional Information:</i> University of West Florida, Archaeology Institute, Report of Investigations Series. These are published semi-frequently as projects are completed.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

We obtain permits to work on submerged sites from the State of Florida and/or the National Park Service, and the local Gulf Islands National Seashore. We also obtain dredge and fill permits from the DEP and U.S. Army Corps of Engineers.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No to any degree.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Please see question 31.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding for grants. State grants have been more difficult to obtain in recent years following the downtrends in the Florida economy.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

In the main, [answers to these questions are] based on the research projects/field schools that are being undertaken by the [Department of] Anthropology at the University of West Florida. These projects and field schools are managed and sometimes financed by the Archaeology Institute at UWF. All in all, it works very well. We are also home to the Florida Public Archaeology Network. You might want to look at our web pages for further information:  
<http://uwf.edu/anthropology/> <http://uwf.edu/archaeology/> <http://flpublicarchaeology.org/>

**Museums, Nonprofits and Societies**

## Advisory Council on Underwater Archaeology

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### 5. Which of these categories would best describe your organization or unit?

Non-Profit Research Institution

\* Respondent noted that category selection should have been "other"

### 6. Briefly describe your organization's mission and or scope.

[...] The ACUA serves as an international advisory body on issues relating to underwater archaeology, conservation, and submerged cultural resources management. It is working to educate scholars, governments, sport divers, and the general public about underwater archaeology and the preservation of underwater resources. The ACUA is affiliated with the Society for Historical Archaeology.

### 7. Briefly describe your organization's history.

The ACUA has been at the forefront of underwater archaeology for more than 50 years. Its genesis as the Council on Underwater Archaeology was in 1959 and its purpose was fully realized at a meeting in 1963 when a group of archaeologists, historians, and sport divers met in St. Paul, Minnesota for the first international Conference on Underwater Archaeology (CUA). The first joint conference with the then fledgling Society for Historical Archaeology was held in 1970. By 1973, the present structure and name of the ACUA were established and shortly thereafter a merging of conferences occurred. In 2003, a Memorandum of Agreement between the ACUA and the SHA was signed, formalizing the relationship between the two organizations.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					
Contractors					
Interns					
Volunteers					X
<i>Additional Information / Clarifications:</i> The ACUA has 12 elected members, plus non-elected emeritus, institutional, individual and student members					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Cultural Resource Managers
- Conservators

Everyone involved with underwater archaeology is eligible/susceptible to be elected on the ACUA

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					X
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support	X	
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research	X				
Inventory / GIS	X				
Field Surveys	X				
Field Excavations	X				
Permitting / Compliance	X				
Conservation	X				
<i>Additional Information / Clarifications:</i> ACUA is an advisory body providing guidance, information and lobbying to professional and non-professional in the field of underwater archaeology					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

No, our organization does not currently have a conservation facility.

N/A



**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

N/A

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole			X		
Website Presence		X			
Social Media Presence				X	
Print Publications / Newsletters	X				
Digital Publications / Newsletters					X
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations			X		
Community Events					X
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)				X	
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication						X		
Popular Digital Publication							X	
Scholarly Digital Publication						X		
<i>Name of Publication(s) / Additional Information: ACUA Underwater Archaeology Proceedings and the Springer Briefs in Underwater Archaeology (sponsored by ACUA)</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

1) The ratification of the UNESCO Convention for the Protection of Underwater Cultural Heritage by the greatest number of countries as possible 2) The endorsement of the Annex Rules of the UNESCO Convention for the Protection of Underwater Cultural Heritage by the greatest number of organisations as possible in particular in the USA 3) The signing by the USA of the Titanic Act 3) Concern over the various attempts by US States to limit or eliminate their support to archaeology 4) The lack of ethics from various museums who are showing/developing exhibit for commercially salvaged wrecks.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

RMS Titanic Maritime Memorial Preservation Act 2009

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The most important recent development of the the field of submerged culturage heritage as a whole is the ratification of the UNESCO Convention [on the Protection] of the Underwater Cultural Heritage. The ACUA has played an important role in the support of the development and the ratification through its network of professionals. The ACUA has played an important role in the delay and possible cancellation of a controversial exhibit in the Smithsonian Institution using artifacts commercially salvaged from a shipwreck.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

A true concern for the SHA and therefore the ACUA is the diminution of the membership. One of the primary concerns of the ACUA is relevance to its membership as an organisation that serves their professional needs (training, information, support). Also of high concern is the constant intrusion in the field of underwater archaeology of groups that salvage commercially the underwater cultural heritage

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

The coming into force of the UNESCO Convention is in itself a huge positive accomplishment in the field of maritime heritage preservation by giving sound parameters, a common language and something to turn to, refer to and use as an example to defend maritime heritage under threat.

## Cleveland Underwater Explorers, Inc.

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### 5. Which of these categories would best describe your organization or unit?

Avocational Volunteer Group

### 6. Briefly describe your organization's mission and or scope.

Cleveland Underwater Explorers, Inc. (CLUE) is a non-profit corporation whose membership includes divers, historians, and archaeologists who are dedicated to researching, locating, exploring, and documenting the shipwrecks and submerged cultural heritage of the Great Lakes with an emphasis on Lake Erie. CLUE is based in Cleveland, Ohio, United States of America, on the southern shore of Lake Erie.

### 7. Briefly describe your organization's history.

CLUE was founded by David VanZandt and Kevin Magee in 2001. Chief Researcher Jim Paskert joined the team in 2004 and Tom Kowalczk in 2007. These members form the core of the organization which also includes other associate members. The team consists of individuals skilled in many areas required for underwater exploration and survey including; archival research, Great Lakes history, Great Lakes ship construction styles and techniques, underwater search equipment operations and techniques, underwater archaeological techniques, mechanical and electrical engineering, and recreational and technical scuba diving. The team predominantly uses David VanZandt's boat the R/V Sea Dragon based in Cleveland, Ohio and Tom Kowalczk's boat Dragonfly based in Lakeside, Ohio. CLUE's search equipment includes a dual-frequency Imagenex Sportscan, two Imagenex Model 872 Yellow Fin sidescan sonars, a dual-frequency Klein Model 595 converted to digital operation, and a J.W. Fishers Proton 3 magnetometer to locate and identify submerged objects. The boats are also outfitted with GPS tracking/plotting equipment and several bottom sounders. CLUE has the capability of using its search equipment in a stand-alone configuration that allows search and survey operations from other platforms. To date CLUE has discovered and documented over 20 shipwrecks in Lake Erie.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors					
Interns					
Volunteers					X
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- GIS / IT Specialists
- Historians
- Archivists

- Other
- Engineers

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More positions than qualified candidates.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					
Other					X
<i>Additional Information / Clarifications:</i> Funding from local historical society.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other	X	
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research				X	
Inventory / GIS		X			
Field Surveys				X	
Field Excavations					
Permitting / Compliance					
Conservation					

*Additional Information / Clarifications:*

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence	X				
Print Publications / Newsletters	X				
Digital Publications / Newsletters	X				
Newspaper Articles / Editorials / Blogs	X				
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X

Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	<b>Yes</b>	<b>No</b>
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication						X		
Popular Digital Publication						X		
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

None

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The most recent accomplishment was the discovery and survey of the brig Sultan. A local news segment of this discovery is in production for the general public. The advancement of survey techniques, particularly deep water.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding and time. Since we are an avocational organization almost all of the members work for a living and participate in activities as work permits.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response



## Great Lakes Historical Society

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### 5. Which of these categories would best describe your organization or unit?

Museum

### 6. Briefly describe your organization's mission and or scope.

Mission to preserve and make known the history of the Great Lakes. Ancillary to collect and exhibit the material culture of the Great Lakes through the operation of the Inland Seas Maritime Museum, Vermilion, Ohio. Research Great Lakes history and disseminate information by publishing Inland Seas, the quarterly journal of Great Lakes History, and significant Great Lakes books. Acquire and maintain the archival history of the Great Lakes and make this history available to researchers through the operation of the Clarence S. Metcalf Great Lakes Maritime Research Library. Investigate and research submerged cultural history through the operation of the Peachman Lake Erie Shipwreck Research Center.

### 7. Briefly describe your organization's history.

The Great Lakes Historical Society was founded in Cleveland, OH in May of 1944 when a group of marine enthusiasts, concerned over the imminent loss of maritime history, met and voted to create the quarterly journal Inland Seas as the Society's primary vehicle for preserving Great Lakes history. Mr. Clarence S. Metcalf, then director of the Cleveland Public Library, was a driving force in establishing the Society. In fact, an early form of the museum was housed at a branch of the Cleveland Public Library. However, as the society's collections grew, it was necessary to find a new home. In 1953, Commodore Albert F. Wakefield donated his family home, Harbor View, to Bowling Green State University Foundation. GLHS leased this property in Vermilion from the BGSU Foundation, until they purchased it outright in 1979. Exhibit space was drastically increased when the BGSU Foundation, with a donation from the Wakefield family, built an addition in 1968. This allowed also for growth in both the library and museum holdings. In 1991 a group of local citizens, along with the society, erected a replica of the 1877 Vermilion Lighthouse on the Society's property. In September 1992, the pilothouse from the Great Lakes car carrier Canopus was acquired and restored by volunteers and added to the 1968 wing as a permanent exhibit. In 1999, with future expansion in mind, the Society acquired property and a building adjacent to the Wakefield House. This now serves as home to the Peachman Lake Erie Shipwreck Research Center. After careful consideration, significant professional input and a desire to insure the Society's long term viability, the board of directors voted to secure a new, more hospitable location for its museum operations. In 2010, the Society secured a new facility in Toledo, Ohio to house the new National Great Lakes Maritime Museum. The Society was set up to be, and remains, a membership based organization. GLHS continues to survive due to its 2000 plus members who reside in forty-five states and five countries. The majority of our members join to receive our award winning quarterly journal Inland Seas. There are seven levels of membership with increasing benefits. However, all members receive Inland Seas as well as free entrance to the Inland Seas Maritime Museum. Most of these are individual members, but we have many libraries, universities, and businesses that subscribe as well.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors	X				
Interns		X			
Volunteers			X		
<i>Additional Information / Clarifications:</i> Interns are summer only					

**9. Institutional member levels, if applicable:**

1000+

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Administration / Support Staff

As we only have 2 staff members - we do all of these jobs. [Our educational training includes nautical archaeology, history and public policy.]

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants		X			
Affiliated Foundation	X				
External Foundation		X			
Private Contracts	X				
Public Donations	X				
Individual / Member Support			X		
Other		X			
<i>Additional Information / Clarifications:</i> Funding, obviously, varies from year to year based on what we can achieve. Our state support used to be significant, but was completely cut out of the state budget 3 years ago.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		
External Foundation	X	

Private Contracts		
Public Donations		
Individual / Member Support	X	
Other	X	
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS	X				
Field Surveys			X		
Field Excavations		X			
Permitting / Compliance	X				
Conservation		X			
<i>Additional Information / Clarifications:</i> [We have engaged in] one conservation project based upon a single recovery we did with the state of Ohio. As with most programs, we would love to expand our program, but right now the majority of our work is done with volunteer divers a few weekends a year. We have some current funding to do some more in depth studies with a select few volunteers.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

Our collection is at least several thousand artifacts. However I would estimate that only 10% of them are from submerged sites.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.

Due to the lack of funding, our curation is done to the best of our abilities, but it needs improvement.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole					
Website Presence	X				
Social Media Presence			X		
Print Publications / Newsletters			X		
Digital Publications /	X				

Newsletters					
Newspaper Articles / Editorials / Blogs					X
Lectures / Presentations			X		
Community Events		X			
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)			X		
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i> One of our most important outreach programs is our quarterly journal, Inland Seas. It is due to this publication that we have over 2000 members across the US and Canada.					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers	X		
University/Non-Profit Affiliated Researchers	X		
Cultural Resource Management Firms	X		
State Agencies	X		
Federal Agencies	X		
Foreign Governments	X		
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies	X	
Federal Agencies		X
Foreign Governments		X

Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication				X				
Scholarly Print Publication				X				
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i> Inland Seas								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

The biggest concern is that some of the volunteers that we work with are finding new shipwrecks faster than we can do basic recording of them. Along with that comes the concern that we do not have the staff or funding to fully record and completely publish these new findings. In terms of legislative gaps - the state of Ohio has decent regulations, but they only protect shipwreck and airplane sites. I am working on a study of the Battle of Lake Erie site - this engagement was important, but no ships sank, so, as defined by the state, any discovery [made] is not protected under state law.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

As we try to grow our program, [we are] very proud of our collaboration with INA and TAMU and the excavation of a 19th century steamboat. As far as we know, this is the only academically excavated wreck in Ohio waters that has ever been done. With that, we received much press and were able to educate the Northern Ohio area about their submerged cultural heritage. The second

program [is the] search for the Battle of Lake Erie. For this we received funds from the National Park Service, [American Battlefield Protection Program]. Our organization is small and regional, to receive a grant from a national agency was a big deal for us. With this program, we were able to begin planning with other entities in the area for the War of 1812 bicentennial.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

[We] are severely hampered by a lack of funding and staffing. Due to these issues, [we] have been unable to finish publication of projects and have not been able to continue to grow the program [...]. In terms of the entire field, there are so many things that are being done well, but at the same time, so many things that can hold people back. The biggest problem [appears to be] the public education component. In the east end of Lake Erie recently a treasure hunting group found a 19th century wooden vessel and wanted to raise it and put it on display in Buffalo. While the state did the right thing and consulted with archaeologists around the area and denied the needed permits to do this, many of the individuals in the community were mad at these "outsider" archaeologists telling them what to do with their heritage. They didn't seem to understand the importance of long term maintenance, in-situ preservation, etc.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Great Lakes Shipwreck Preservation Society

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### 5. Which of these categories would best describe your organization or unit?

Avocational Volunteer Group

### 6. Briefly describe your organization's mission and or scope.

The GLSPS provides the platform through volunteers such as Historians, Divers and special interest groups to help preserve Maritime History. We feel it's necessary to preserve underwater shipwrecks like they preserve Museums of History. We perform light underwater construction to preserve shipwrecks. Our mission statement is "From Prevention to Preservation". We take pride in what we have all accomplished. You can certainly see what has been done by logging onto our website at [www.glsps.org](http://www.glsps.org). After you log on you can click on both fields "2011 Projects" and "Projects 2011" to read about our annual project schedule and the reports as to what we completed on each project. You can also click on the "Legacy Website" to see what we have accomplished from when the GLSPS was founded in 1996 to 2009, in which we switched to a different interactive website. As you will see, we are a busy bunch and we accomplish many projects throughout the year in a very short period of time.

### 7. Briefly describe your organization's history.

The GLSPS was founded by a few individuals that had a dream to preserve shipwrecks that sunk back in the late 1800's and early to mid 1900's. They were deteriorating under the waters of the Great Lakes and if something wasn't done soon, the shipwrecks would become nothing but a debris field. Then no one would be able to see these historical sites or study them in the future. It all started two years before (1994) the official start of the Society when a few dynamic people wanting to repair the S.P. Ely, (a three masted wood schooner that sunk in 1896) in Agate Bay in the City of Two Harbors along the North Shore of Lake Superior. The deck had fallen and both sides of the wooden ship were flaying outward. During the winter when the ice was fairly thick, they hoisted up the deck with winches through ice holes and installed sixteen 1 inch rods to hold the ship in place. Today, it still remains in that state of repair. From then on the Society was formed. As you will see on both our current and Legacy websites we have completed a lot of preservation projects throughout the years in the name of Maritime History Preservation.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors		X			
Interns		X			
Volunteers					X
<i>Additional Information / Clarifications:</i> Most of the volunteers consist of active members only.					

### 9. Institutional member levels, if applicable:

101-250

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Historians

- Education / Outreach Specialists
- Administration / Support Staff

The GLSPS does not employ any of the above other than having to pay for the expenses involved with their processes.

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More positions than qualified candidates.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants		X			
Affiliated Foundation					
External Foundation		X			
Private Contracts					
Public Donations		X			
Individual / Member Support		X			
Other		[X]			
<i>Additional Information / Clarifications:</i> Funding for the GLSPS comes from Members, Business and Corporate sponsors, Grants, and our annual Upper Midwest Scuba and Adventure Travel Show, which is our largest fund raiser.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		X
Private Contracts		
Public Donations	X	
Individual / Member Support	X	
Other		
<i>Additional Information / Clarifications:</i> Fund raising is getting harder and harder in the economy we are faced with lately.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS	X				
Field Surveys			X		
Field Excavations	X				
Permitting / Compliance					X



Conservation					X
<i>Additional Information / Clarifications:</i> The GLSPS legally doesn't have the authority to remove any artifacts from the shipwrecks for a Federal Law that was enacted in 1987. Therefore we gain permission to bring up an artifact only if it is restored and placed in a Museum or display where the public can view it.					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence		X			
Print Publications / Newsletters	X				
Digital Publications / Newsletters	X				
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events		X			
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public	X		
Independent Researchers	X		
University/Non-Profit Affiliated Researchers	X		

Cultural Resource Management Firms	X		
State Agencies	X		
Federal Agencies			X
Foreign Governments			
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	<b>Yes</b>	<b>No</b>
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication					X			
Scholarly Print Publication								
Popular Digital Publication					X			
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i> Our current Newsletters are only available to the GLSPS Membership. Newsletters older than a year are open to public viewing.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

To date, we have not experienced any management policy concerns. Although, we have noticed a decline in grant availability.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

We haven't experienced any changes in the regulations that directly involve the Society.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The GLSPS has completed many projects that would be considered as preserving our maritime heritage. We have performed both above water and below water. Our GLSPS website ([www.glsps.org](http://www.glsps.org)) says it all.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding and staffing has always been and always will be a challenge in any volunteer organization. In the past, funding has not been a huge problem but it takes a lot of work and man (or women) hours to implement. Membership comes [and] goes. It has been related to people losing interest in the society to lack of extra funds or time to be a member. Time being the biggest loss of membership. No one seems to have the time anymore.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

The current active members and I are very positive about the challenges we face in the GLSPS. We have unbelievable drive that many organizations do not have. [\*Removed due to the presence of personal information\*]. [Positive thinking, business expertise and this drive] push[es] the Society to engage in at least 20 programs and projects per year. We complete most of them. The only reason we are not able to complete a few of them each year is because of the lack of interest and staffing. Which mostly equates to lack of time during our short summer we have up in the Great Lakes Region. The GLSPS likes to provide a platform to make a difference in the world today. Especially in something we have a better chance of controlling such as preserving our maritime heritage. The GLSPS [members and officers] are movers and shakers and it drives us crazy when people sit on their thumbs and do nothing when they could get out there to make an impact on society as a whole! Thank you for the opportunity to complete this survey. I hope it aids in the accuracy of your research and to produce a great report. [\*Removed due to the presence of personal information\*].

## Historic Naval Ships Association

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### 5. Which of these categories would best describe your organization or unit?

[Non-Profit Association]

### 6. Briefly describe your organization's mission and or scope.

Association of historic naval ship museums. There are approximately 120 museums in the organization with about 180 ships. This office acts as a "clearing house" for all our museums.

### 7. Briefly describe your organization's history.

The organization was founded in 1966 with 5 ship museums.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors	X				
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

101-250

### 10. What kind of specialists are employed by your organization?

- Cultural Resource Managers
- Conservators
- Curators
- Historians
- Archivists
- Education / Outreach Specialists

These folks are employed by the individual museums

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

Even distribution of qualified candidates and available positions.

### 13. Please note your primary sources of funding.

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation					
External Foundation					

Private Contracts					
Public Donations					
Individual / Member Support					X
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		X
External Foundation		X
Private Contracts		X
Public Donations		X
Individual / Member Support	X	
Other		X
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS					
Field Surveys					
Field Excavations					
Permitting / Compliance					
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole			X		

Website Presence	X				
Social Media Presence			X		
Print Publications / Newsletters		X			
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations			X		
Community Events			X		
Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					X
Other #2 (please clarify below)			X		
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			
Independent Researchers			X
University/Non-Profit Affiliated Researchers			
Cultural Resource Management Firms			
State Agencies			X
Federal Agencies			
Foreign Governments			
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X

Federal Agencies		X
Foreign Governments		X
Other (please explain below)		X
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication				X				
Scholarly Print Publication								
Popular Digital Publication				X				
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

No Response

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Each museum is a separate entity

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response



**Institute for International Maritime Research, Inc.**


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**5. Which of these categories would best describe your organization or unit?**

Non-Profit Research Institution

**6. Briefly describe your organization's mission and or scope.**

Institute for International Maritime Research, Inc, was incorporated in 1989 to support and conduct maritime historical research, maritime preservation projects and marine archaeological research.

**7. Briefly describe your organization's history.**

Since incorporating in 1989, IIMR has carried out a variety of historical research, maritime preservation projects and marine archaeological investigations. Most have been funded by grants, gifts and contracts. Ongoing projects include a search for the location of the Raleigh Colony sites on and offshore of Roanoke Island, N.C. IIMR has also obtained the only surviving skipjack built in North Carolina in 1915. The Institute brought the vessel back from Maryland, has been instrumental in its restoration and today cooperates with Carolina Coastal Classrooms in operating the historic vessel in an educational program. IIMR has also supported and assisted in such projects as the investigation of the Confederate commerce raider CSS Alabama, investigated the earliest identified historic vessels in Virginia in conjunction with VDHR and conducted remote sensing surveys in Florida for FBAR. An investigation of shipwrecks at City Point, Virginia in conjunction with INA.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff	X				
Contractors					
Interns					
Volunteers			X		
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Historians
- Archivists
- Education / Outreach Specialists

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More positions than qualified candidates.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants				X	
State Funds / Grants		X			
Affiliated Foundation				X	
External Foundation					
Private Contracts					
Public Donations		X			
Individual / Member Support		X			
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation	X	
External Foundation		
Private Contracts	X	
Public Donations	X	
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research			X		
Inventory / GIS					
Field Surveys				X	
Field Excavations				X	
Permitting / Compliance					
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.  
Limited to specific projects.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.  
No artifacts are retained by IIMR.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence	X				
Social Media Presence		X			
Print Publications / Newsletters		X			
Digital Publications / Newsletters					
Newspaper Articles / Editorials / Blogs	X				
Lectures / Presentations			X		
Community Events		X			
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)					
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i> The skipjack Ada Mae is operated in conjunction with another Not for Profit in an environmental and historical educational program.					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication						X		
Scholarly Print Publication						X		
Popular Digital Publication						X		
Scholarly Digital Publication						X		
<i>Name of Publication(s) / Additional Information:</i> Notes on Virginia Archaeology for example								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Lack of adequate sources of funding for historical and archaeological research and maritime preservation.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The most recent, and ongoing project, is the investigation of two small vessels that date to the second quarter of the 18th century. The wrecks lie in the Mattaponi River and were likely associated with maritime activities at Newington Plantation. Both appear to have been rigged as sloops and are, to date, the earliest shipwreck vessels identified and investigated in Virginia.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

As with most Not for Profit organizations, the most critical challenge is related to obtaining funding for worthwhile projects. With historic vessels being abandoned worldwide that problem is clearly global in nature. Without responsive, educated and trained volunteers IIMR would be unable to carry out projects.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Institute of Nautical Archaeology

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### 5. Which of these categories would best describe your organization or unit?

Non-Profit Research Institution

### 6. Briefly describe your organization's mission and or scope.

The Institute of Nautical Archaeology conducts archaeological research to increase knowledge of the evolution of civilization through the location and excavation of submerged and buried ships, submerged ruins, and their associated artifacts. Our mission is to fill in the gaps of history and provide answers to challenging historical questions through the study and examination of the vessels that have traveled the world's waterways for millennia, carrying people and cargo, and making possible the widespread exchange of ideas, innovation and invention.

### 7. Briefly describe your organization's history.

It is too complicated to limit to a few sentences so I refer you to this link:

[http://www.inadiscover.com/about/ina\\_history/](http://www.inadiscover.com/about/ina_history/)

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors		X			
Interns				X	
Volunteers				X	
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

1000+

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Conservators
- Historians
- Archivists
- Administration / Support Staff

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

More qualified candidates than available positions.

### 13. Please note your primary sources of funding.

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants		X			
Affiliated Foundation			X		

External Foundation	X				
Private Contracts	X				
Public Donations		X			
Individual / Member Support			X		
Other	X				
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation	X	
External Foundation		X
Private Contracts		X
Public Donations	X	
Individual / Member Support	X	
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research			X		
Inventory / GIS		X			
Field Surveys		X			
Field Excavations				X	
Permitting / Compliance		X			
Conservation			X		
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence	X				
Social Media Presence	X				
Print Publications / Newsletters		X			

Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events			X		
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			X
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments	X	
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		



**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication				X				
Scholarly Print Publication						X		
Popular Digital Publication				X				
Scholarly Digital Publication						X		
<i>Name of Publication(s) / Additional Information:</i> INA Quarterly and INA Annual, available in print and on-line (post-production)								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Treasure hunting and the antiquities trade continues to constitute a major social and archaeological problem for scientifically-trained archaeologists whether working on land or under water.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Former INA president Jim Delgado (now at NOAA) and various INA Research Associates participated in a two-part workshop titled "Who owns underwater cultural heritage? Perspectives on archaeological law and ethics in the Mediterranean," convened at Brock University in St Catharines, Ontario (22-25 October 2009) and at the University of Pennsylvania Museum in Philadelphia, Pennsylvania (26-28 March 2010). Over the course of the two sessions, a document emerged through consensus of the participants to reflect principles and best practices for underwater archaeology and the stewardship of underwater cultural heritage.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Though INA's primary focus is the excavation of historically-significant shipwrecks, the Royston Breakwater Project has recently confirmed the importance of conserving all relics of maritime history, i.e. not only shipwrecks but also the structures associated with foreshore facilities that make up the maritime landscape.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

INA is the ONLY international organization of its kind that can work globally, to locate,

document, excavate and preserve significant underwater and nautical archaeological sites. Continuing the work that our founders began over 50 years ago, INA researchers are bringing to light those remnants of our collective past that speak most powerfully to us, about who we are, what we have done, and what we are capable of and doing so while upholding the highest scientific, academic and ethical standards. We spend many hours studying our finds and conserving them in our labs. We work hard to place history in museums where it can be shared. We speak about exciting new findings through the media and at conferences and seminars, publish academic and popular books and articles, our newsletter, The INA Quarterly and our yearly review, The INA Annual and we are reaching ever more people online to ultimately deepen the understanding of human history worldwide. In 2011 INA conducted or supported 16 projects in 12 countries on four continents, including the excavation of a Phoenician shipwreck in Spain, a late Hellenistic column wreck in Turkey, and a 17th-century English galleon in Bermuda; shipwreck surveys in coastal waters of off Nevis, Virginia, Crimea, Vietnam, Bahamas, Egypt, the Great Lakes, the Baltic Sea, and the Indian Ocean; conservation, archival and post-excavation research at sites in Turkey, Italy, the U.S. and Canada.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

The greatest challenges facing INA in the short-term are (a) financial and (b) bureaucratic. We are blessed to enjoy the support of a dedicated group of generous directors and loyal members, but we are still subject to the vicissitudes of state funding and dwindling university support. Concomitant challenges include those associated with obtaining excavation permits and research visas in foreign countries, especially Turkey. Public outreach is key and every year, INA research associates and affiliated scholars share the results of their hard work through presentations at conferences, public lectures, in scientific journals, popular articles, and television documentaries. INA's web page ([www.inadiscover.com](http://www.inadiscover.com)) and project blogs have proven effective for communicating the intellectual value, urgency, and real-world challenges of our work. In recent tough financial times, INA chose wisely to divest itself of costly administrative salaries and focus on its core, proven, qualitative strengths: conducting archaeological fieldwork and generating top-tier publications in nautical archaeology.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Lake Champlain Maritime Museum

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### 5. Which of these categories would best describe your organization or unit?

Non-Profit Research Institution

### 6. Briefly describe your organization's mission and or scope.

Preserve and share the history and archaeology of Lake Champlain.

### 7. Briefly describe your organization's history.

Twenty-five year old museum which interprets the history of Lake Champlain with its main campus is in Vergennes, Vermont. LCMM has a replica canal schooner (Lois McClure) which travels seasonally around regional waterways furthering the museum's mission. Underwater archaeology has been a mainstay of the museum since its founding. LCMM does both grant-funded research oriented archaeology and compliance-related work.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors		X			
Interns		X			
Volunteers					X
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

501-1000

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- Conservators
- Curators
- Historians
- Education / Outreach Specialists
- Administration / Support Staff

One of our staff has GIS experience, but is not a GIS specialist

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants		X			
Affiliated Foundation					
External Foundation		X			
Private Contracts		X			
Public Donations		X			
Individual / Member Support		X			
Other		[X]			
<i>Additional Information / Clarifications:</i> Some LCMM funding is endowment based, which does not appear to be an option.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants	X	
Affiliated Foundation		X
External Foundation		
Private Contracts		X
Public Donations	X	
Individual / Member Support	X	
Other	[X]	
<i>Additional Information / Clarifications:</i> [Endowment]		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys			X		
Field Excavations		X			
Permitting / Compliance		X			
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence			X		
Print Publications / Newsletters	X				
Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations			X		
Community Events		X			
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)				X	
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers		X	
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies	X		
Foreign Governments		X	
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication					X			
Scholarly Print Publication						X		
Popular Digital Publication					X			
Scholarly Digital Publication						X		
<i>Name of Publication(s) / Additional Information:</i> LCMM newsletter: LCMMnews								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

The [Abandoned Shipwreck Act] has become worthless due to the various legal interpretations of embedded and abandoned. Revising this law to meet the original legislative intent would make a significant impact on preserved wreck sites.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

[Abandoned Shipwreck Act] and (more limited) work on the Warships Act.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Over the last several years Art Cohn (LCMM director) has served as an expert witness to the state of NY in the "Dunkirk Schooner" case arguing for the applicability of the [Abandoned Shipwreck Act] to this c. 1830 Great Lakes schooner.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding is our primary issue. We struggle to make our budget every year. As far as the field goes, the lack of federal funds to support maritime heritage preservation is a problem. As referenced above, the sorry state of the [Abandoned Shipwreck Act] needs to be addressed.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Lighthouse Archaeological Maritime Program

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### 5. Which of these categories would best describe your organization or unit?

Non-Profit Research Institution

### 6. Briefly describe your organization's mission and or scope.

LAMP's mission is to conduct meaningful archaeological and historical research related primarily to the maritime history of America's oldest port, St. Augustine, and its surrounding region, and to engage the public through educational programming based on that research. LAMP serves as the research arm of the St. Augustine Lighthouse & Museum. While most of LAMP's research is carried out in Northeast Florida, occasional field projects are implemented outside of this area, and archival research related to St. Augustine has been undertaken by LAMP researchers across the U.S. and in Spain and the U.K.

### 7. Briefly describe your organization's history.

LAMP was formalized in 1999 as the research arm of the St. Augustine Lighthouse & Museum. The Museum had been providing financial support for underwater archaeology since 1997, specifically for a group known as SOAR (Southern Oceans Archaeological Research, Inc.) which had been conducting shipwreck survey in St. Augustine waters since 1995. One of the co-directors of that SOAR project, Billy Ray Morris, became the first Director of LAMP upon its foundation. LAMP's initial research focused on offshore shipwrecks but its scope was expanded to include a more holistic approach to studying the maritime landscape, and during the ensuing years developed a program of research focusing not only on offshore wrecks but a wide variety of maritime sites along regional waterways and foreshores. In 2005 LAMP underwent a complete staff overturn and starting in 2006 Chuck Meide took over as Director. LAMP researchers increasingly used historical and ethnographic research to supplement its archaeological work, and in 2007 instituted a volunteer-driven wooden boatbuilding program to further enhance its research on watercraft. Since 2007, LAMP has instituted a summer field school in maritime archaeology, accredited in various years through Flinders University and Plymouth State University. LAMP currently employs four full time archaeologists, including specialists in paleography and archaeological conservation, and utilizes the work of hundreds of volunteers to carry out its mission.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors					
Interns					X
Volunteers					X
<i>Additional Information / Clarifications:</i> Intern numbers vary throughout the year, though we may utilize around 10 in a given year. LAMP typically benefits from the services of up to 100 volunteers in a given year.					



**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Conservators
- Curators
- Historians
- Education / Outreach Specialists

Our parent organization, the St. Augustine Lighthouse & Museum, employs around 5 educators/outreach specialists and a curator who work regularly with us. The Museum's Education Dept. is managed by a public archaeologist, and their goal is to turn LAMP research into educational programs.

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts		X			
Public Donations		X			
Individual / Member Support					
Other					X

*Additional Information / Clarifications:* Museum revenue (admissions and gift shop sales) provides the main source of income for LAMP. At one point--from 2007 through 2009--state grants provided a significant portion of our budget (providing for most research expenses other than salaries, boats, and insurance) but state money has all but disappeared since the great recession, and federal money has proven elusive, probably due to greater competition as well as the overall economy. Though our Board has been pushing LAMP to seek out more grant funding we have been unable to secure any since 2009. Our annual field school has been one area of economic growth, producing an estimated \$25,000 of income this year. We also have raised between three and five thousand dollars through raffling off a boat build by our boatbuilding program. We also secure occasional CRM contracts, and regular donations from supporters. These alternate sources of funding combined constitute less than 25% of our annual budget

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		
External Foundation		
Private Contracts		X
Public Donations		X
Individual / Member Support		
Other	X	
<i>Additional Information / Clarifications:</i> See previous comment		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance	X				
Conservation		X			
<i>Additional Information / Clarifications:</i> We conduct active fieldwork, both survey and excavation, primarily in the summer months (late May through the end of August). Conservation related to this fieldwork is ongoing. Archival research and GIS work is largely carried out to support fieldwork.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility, but it does not fully meet our needs. We have a very limited amount of conservation space, which is barely meeting our needs, but are in an active fund-raising campaign with the goal of constructing a new building with an expanded conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs. The museum rents a Collections Building which currently meets our needs, though space is limited and could be a future problem.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence			X		
Print Publications / Newsletters	X				
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs	X				
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		X
<i>Additional Information / Clarifications:</i> We have not formally partnered with such groups in the development of our database, though various individuals affiliated with most of the institutions listed above have contributed data at various times.		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication					X			
Scholarly Print Publication								
Popular Digital Publication								
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i> The periodical "Spyglass" is a glossy magazine format that serves as the newsletter/magazine for LAMP and the Museum								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

The continued legality of treasure salvage in the state of Florida is an ongoing concern.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

We have occasionally reviewed management plans, etc.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Not really

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

We have successfully grown our institution over the past few years, having doubled our staff, acquired a full suite of remote sensing gear and other field equipment, and are currently expanding our conservation capability. We have grown volunteer hours exponentially, thousands per year, and have developed a number of successful programs including our heritage boatworks and oral history programs. We have expanded our capability in general, and have begun to reap the benefits of that as regular survey activities have yielded the discovery and subsequent excavation of historic shipwreck sites.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

The greatest challenges facing LAMP include capacity, which means both funding and staffing, and also space. Increased funding is the key to solving capacity and space needs. I would think that these particular challenges are shared by most organizations in our field.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

This field has grown a lot over the last 20 years, when I was first introduced to it as a student. There are significantly more jobs in the field now than there were then, perhaps as a by-product of the increasing numbers of universities offering training in the field. [Removed due to due to the presence of personal information].

## Maritime Archaeological and Historical Society

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### 5. Which of these categories would best describe your organization or unit?

Avocational Volunteer Group

### 6. Briefly describe your organization's mission and or scope.

The Maritime Archaeological and Historical Society (MAHS) is organized for the purpose of enhancing public awareness and fostering appreciation for the significance of historic shipwrecks and other submerged cultural resources. Our mission is to preserve our maritime heritage, and members volunteer to participate in underwater archaeology expeditions around the world.

### 7. Briefly describe your organization's history.

Created in 1988 as a nonprofit educational organization under section 501C of the Internal Revenue Code, MAHS conducts a live course in underwater archaeology each year and distributes a video series nationally and internationally to educate the public about the importance of preserving historic shipwrecks. These courses not only convey concepts of stewardship but also teach recreational scuba divers the scientific techniques of underwater archaeology so they can become productive volunteers for federal, state and academic underwater archaeology projects. Over the years MAHS volunteers have preserved over 40 historic shipwreck sites.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff	X				
Contractors	X				
Interns	X				
Volunteers					X
<i>Additional Information / Clarifications:</i> MAHS is an all volunteer organization					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Historians
- Archivists
- Other
- Boat charter services

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants		X			
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations					
Individual / Member Support					X
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		X
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support	X	
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS					
Field Surveys				X	
Field Excavations					
Permitting / Compliance					
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence			X		
Print Publications / Newsletters	X				
Digital Publications / Newsletters					X
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations		X			
Community Events					X
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)	X				
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers	X		
University/Non-Profit Affiliated Researchers	X		
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			



**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication					X			
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

MAHS is active in opposing permits by treasure hunting companies and campaigning for improved legislation to advance the notion of stewardship for historic shipwreck sites. MAHS is largely responsible for initiating Spain's recent policy of [taking] charge of and protect[ing] its shipwrecks in US waters and other locations around the world.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

The growing acceptance of UNESCO standards has helped spread the stewardship message and we have noticed an increasing interest in stewardship among recreational divers in recent years.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

MAHS serves as a proven model for other avocational groups across the country who want to become involved in underwater archaeology projects. Our most important recent accomplishment was the contribution of a professional level survey report synthesizing terrestrial and underwater data to establish the historic context of Bodkin Creek, a tributary of the Chesapeake Bay. This project was completed under a Maryland state grant and would not have occurred without the involvement of MAHS trained volunteers. MAHS plans to continue underwater mapping projects to advance the protection of [underwater cultural heritage] and as a tool for educating recreational divers about the importance of good stewardship. The most important achievements of the field as a whole is the creation of underwater parks to take pressure off of sensitive shipwreck sites and the growing acceptance of UNESCO standards for managing underwater cultural resources.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

The greatest challenge is to keep our educational programs in front of the public and to update these programs on a regular basis. The current MAHS audience consists of those who discover our programs on the internet or learn about them by word of mouth. Without Federal and state support MAHS must rely on limited membership funds and course revenues to promote its programs and maintain its visibility in the recreational diver community.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Maritime Heritage Minnesota

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### 5. Which of these categories would best describe your organization or unit?

Non-Profit Research Institution

### 6. Briefly describe your organization's mission and or scope.

Maritime Heritage Minnesota is dedicated to the conservation, preservation, documentation, and when necessary, the excavation of Minnesota's finite maritime and nautical resources within a not-for-profit paradigm.

### 7. Briefly describe your organization's history.

Maritime Heritage Minnesota (MHM) was founded in July 2005 by Ann Merriman and Christopher Olson. Documentation of maritime sites occurred in 2007 on Big Island, Lake Minnetonka, the wreck of the USS Essex in Lake Superior in Duluth has been monitored since 2008, and the wrecks of the sternwheelers Swan and Andy Gibson in the Mississippi River in Aitkin have been monitored/documentated since 2008. These activities were paid for by Merriman and Olson out of private funds. In FY 2010-2011, MHM was awarded 5 Minnesota Historical and Cultural Grants: 1. Planning grant for the future of USS Essex; 2. Digitization of the 62 log books of the USS Essex at the [National Archives and Records Administration] and [United States Naval Academy]; 3. Mississippi River Aitkin County Survey- 104-mile side and down-imaging sonar survey of the Mississippi River in Aitkin County; 4. Partially dry nautical excavation/documentation/[National Register of Historic Places] nomination of sternwheeler Andy Gibson; 5. Editing/Transcription of 5 USS Essex log books for uploading to the Internet Archive.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors					
Interns					
Volunteers		X			
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- Conservators
- Curators
- Historians
- Archivists
- Education / Outreach Specialists
- Administration / Support Staff

[\*Removed due to the presence of personal information]

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants	X				
State Funds / Grants					X
Affiliated Foundation	X				
External Foundation	X				
Private Contracts	X				
Public Donations	X				
Individual / Member Support		X			
Other	X				
<i>Additional Information / Clarifications:</i> We're in the process of sending out fundraising packages to individuals and local business for targeted project support. The Minnesota Historical and Cultural Grant Program is active, but stalled until the Minnesota budget for FY2011-2012 is passed - and the government may shut down in July. Not good.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants	X	
Affiliated Foundation		X
External Foundation		X
Private Contracts		X
Public Donations		X
Individual / Member Support		X
Other		X
<i>Additional Information / Clarifications:</i> The MN Historical and Cultural Grant Program is a 25-year initiative and is part of the MN Constitution because it is an Amendment voted on by the People of Minnesota - but, with legislative shenanigans and political theater are killing us and making them not unreliable, just delayed.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research			X		

Inventory / GIS	X				
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance	X				
Conservation	X				
<i>Additional Information / Clarifications:</i> We do GIS work but one of our volunteers is a GIS Specialist and handles it for us when we need.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

We have a curation contract with the Minnesota Historical Society but have yet to place artifacts there. We don't collect artifacts as a rule (and really haven't uncovered any, just in situ features) - the boats/docks/piers are our artifacts.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence	X				
Print Publications / Newsletters			X		
Digital Publications / Newsletters	X				
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies			X
Foreign Governments		X	
Other (please explain below)			
<i>Additional Information / Clarifications:</i> The Office of the State Archaeologist may make some of these decisions for the safety of underwater sites.			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication				X				
<i>Name of Publication(s) / Additional Information:</i> Whenever we finish a project, our reports are available for download at the Internet Archive, so not really quarterly. We are preparing 1 and maybe 2 digital books currently, but they aren't ready yet.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Education. People still don't get that the Abandoned Shipwreck Act applies "to that old boat" in the river. Andy Gibson's last rudder and a bottom hull section were looted in 2006 - the State made the guy "conserve" and donate the rudder to the local historical society - but the guy got off with no other ramifications. We don't blame the State Archaeologist - he can't press charges, but someone local should press charges in a case like this. MHM heard about the whole thing 2 years after it happened. The laws are there - in Minnesota we have a law that over-rides the ASA and it applies in rivers and lakes on Federal land, not the ASA, and that equals stronger Office of the State Archaeologist control.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

I have to comment - as a non-profit, we cannot advocate for stuff except things like the grant program - if we're seen to be a political/lobbying organization, we could lose our non-profit status. If asked, however, we would testify to a legislative body.

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The partially dry nautical documentation of parts of the starboard gunwale of the sternwheel wreck Andy Gibson. The gunwale is intact, imbedded in the river bank - the only known Mississippi River wreck with an intact gunwale - and only 1 of 5 known steamer wrecks in the Mississippi (one of the others is 2 miles upstream - the Swan). The wreck also sites on a 'dry dock' platform - unique in US nautical/underwater archaeology. Also, our Mississippi River Aitkin County Survey is the first systematic remote sensing survey completed of any body of water in Minnesota - and we may have located 3 or 4 new steamer wreck sites. We're planning remote sensing surveys of the Minnesota River, Lake Minnetonka, and the St. Croix River, and documenting 3 maritime sites designated during our survey last year and assessing the suspected sites. As a whole - the exhibition improvements and conservation of SS Great Britain in Bristol and the completion of the conservation of the Mary Rose at Portsmouth. Lottery money does wonders.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding. We need money. Period. We have the expertise, education, experience, equipment - we just need the money to do the projects. As a whole - funding - and we wish more of the work was non-profit. For-profit underwater archaeology can often play to the wrong clients. The treasure hunter mentality is still an issue - and we wish more looters were prosecuted - and strongly.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

That about covers it. Thanks.



## Monterey Bay Aquarium Research Institute

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### 5. Which of these categories would best describe your organization or unit?

Non-Profit Research Institution

### 6. Briefly describe your organization's mission and or scope.

The Monterey Bay Aquarium Research Institute (MBARI) was founded in 1987 by David Packard. The mission of MBARI is to achieve and maintain a position as a world center for advanced research and education in ocean science and technology, and to do so through the development of better instruments, systems, and methods for scientific research in the deep waters of the ocean. MBARI emphasizes the peer relationship between engineers and scientists as a basic principle of its operation. All of the activities of MBARI must be characterized by excellence, innovation, and vision. David Packard MBARI Founder Science and technology goals To carry out its mission, the institute has defined six main goals: Identify important areas of marine science where research progress is limited by lack of appropriate technology. Develop sophisticated systems for investigating aspects of the marine environment and its inhabitants where high scientific potential exists. Meet the highest possible performance standards for the operation of its equipment and technological systems. Conduct high-quality, innovative research that maximizes effective management and use of all MBARI assets. Develop, in collaboration with the Monterey Bay Aquarium, creative programs that maximize the educational value of MBARI's research results. Transfer research results, technology, and operational techniques to the marine science community worldwide.

### 7. Briefly describe your organization's history.

MBARI was founded in 1987 by engineer David Packard. Among his many accomplishments, David Packard (along with William Hewlett) started the Hewlett-Packard Company, a maker of computers and electronic equipment. After helping his daughters, Julie Packard and Nancy Burnett, develop the Monterey Bay Aquarium in 1984, David Packard established MBARI as a private, not-for-profit oceanographic research center, with offices and laboratories in Pacific Grove, on the Monterey Peninsula. In founding the institute, Packard recognized three areas of nascent technology that could dramatically advance oceanographic research: 1) remotely operated underwater vehicles (ROVs), 2) instruments that could perform chemical analyses in the ocean, and 3) computer science and communications. All of these would become cornerstones of MBARI's early research agenda. Packard insisted that scientists, engineers, and operations staff work together in close collaboration. This three-way marriage of science, engineering, and operations remains one of MBARI's distinguishing features.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors			X		
Interns				X	
Volunteers					
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

101-250

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- GIS / IT Specialists
- Education / Outreach Specialists
- Administration / Support Staff

Primarily engineers and marine operators , and scientists

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants		X			
Affiliated Foundation					X
External Foundation		X			
Private Contracts					
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation	X	
External Foundation		X
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance		X			
Conservation	X				
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence		X			
Social Media Presence		X			
Print Publications / Newsletters		X			
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events		X			
Educational / Training sessions (at your organization)		X			X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies	X		
Foreign Governments			
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies	X	
Foreign Governments		
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication				X	X			
Scholarly Print Publication					X			
Popular Digital Publication								
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i> Science and other scientific publications								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

No Response

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Yes access to our sites have been impacted by establishment of Federal Marine Sanctuary. Definitely more regulation hurdles of coastal sites. Permitting activity is more costly and time consuming.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Our institution has been involved with a number of explorations of coastal maritime heritage sites, which has primarily involved discovery and documentation of these sites. Over the years we have assisted governmental agencies when practical to continue research at these sites or develop engineering strategies for environmental mitigation at submerged sites.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Primarily our greatest challenges is usually securing funding for any effort involving maritime heritage or submerged cultural resources. Our primarily marine scientific goals are usually fully funded and developed, but maritime heritage or submerged cultural resources required outside funding sources which limits our involvement.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Ocean Exploration Trust

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### 5. Which of these categories would best describe your organization or unit?

Non-Profit Research Institution

### 6. Briefly describe your organization's mission and or scope.

The Ocean Exploration Trust is committed to supporting our nation's ocean exploration in search of both its human and natural history. This includes supporting NOAA's new ship of the exploration the Okeanos Explorer as well as the Trust's E/V NAUTILUS and their advanced undersea vehicle development program. Our mission is threefold: (1) to explore the biological, geological, archaeological, chemical and physical aspects of the world's oceans; (2) to develop technology to support exploration; and (3) to inspire and educate learners of all ages about ocean science and engineering.

### 7. Briefly describe your organization's history.

The Ocean Exploration Trust was founded in 2008 and has conducted annual expeditions in the Mediterranean and Black Seas.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors					X
Interns					X
Volunteers					X
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- GIS / IT Specialists
- Education / Outreach Specialists
- Administration / Support Staff
- Other

Also engineers and oceanographers of all disciplines (geo, bio, chem, etc.)

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect to see gradual growth in staffing levels.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants				X	
State Funds / Grants					
Affiliated Foundation					
External Foundation		X			
Private Contracts		X			
Public Donations					
Individual / Member Support		X			
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i> Private contracts, foundation and individual support fluctuate year to year.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research					
Inventory / GIS					
Field Surveys					X
Field Excavations					
Permitting / Compliance					
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

Mystic Aquarium/Institute for Exploration

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence	X				
Print Publications / Newsletters		X			
Digital Publications / Newsletters	X				
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events		X			
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)	X				
Other #1 (please clarify below)	X				
Other #2 (please clarify below)	X				
<i>Additional Information / Clarifications:</i> We are also very involved with the JASON Project, which develops curricula for science, technology, engineering and mathematics disciplines at the middle to high school level. We have professional development for educators who work with our team. We are currently developing an Honors Program for high-level high school students to be actively involved in research.					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X



Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								
Scholarly Print Publication						X		
Popular Digital Publication								
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i> Online coverage of our expeditions is continuous during field work.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Discrepancies between jurisdiction over submerged cultural heritage survey in the EEZ has become an issue. See Croff, KL. 2009. The Underwater Cultural Heritage and Marine Scientific Research in the Exclusive Economic Zone. MTS Journal. 43.1:93-100.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

The UNESCO Convention is the most likely regulation to affect us, but it is so far unclear as to how it will do so.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

No Response

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

No Response

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

No Response

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**Promare Inc.**

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**5. Which of these categories would best describe your organization or unit?**

Non-Profit Research Institution

**6. Briefly describe your organization's mission and or scope.**

Established in 2001 to promote marine research and exploration throughout the world, ProMare is a non-profit corporation and public charity, 501(c)(3). Our team of experienced archaeologists and marine professionals execute a variety of research projects independently and in concert with academic, corporate, public, and governmental organizations and agencies that are designed to advance man's knowledge of history and science.

**7. Briefly describe your organization's history.**

Members of our team conducted underwater archaeology projects in Malta, Italy, Norway, Portugal, Turkey, USA, UK, Canada, Mexico, and Japan. We concentrate in supporting and conducting fieldwork projects, and publish the results of our projects within a year of completion. We hire and employ qualified underwater archaeologists, and keep them funded through the completion of all aspects of the project. Our goal is to include as many aspects of marine sciences in our projects and share the results and outcome of the projects with all interested parties, both in academia and government organizations as well as enthusiasts and interests groups. For detailed information on our projects, and publication lists, visit our web page: [www.promare.org](http://www.promare.org)

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors		X			
Interns					
Volunteers					X
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Historians
- Archivists

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Even distribution of qualified candidates and available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants	X				
State Funds / Grants	X				
Affiliated Foundation	X				
External Foundation					
Private Contracts	X				
Public Donations		X			
Individual / Member Support	X				
Other		X			
<i>Additional Information / Clarifications:</i> Our organization is almost fully-funded through a trust fund.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		X
External Foundation		X
Private Contracts		X
Public Donations		X
Individual / Member Support		X
Other	X	
<i>Additional Information / Clarifications:</i> Our funding source is our own trust fund, and it is very reliable and as long as we do not exceed our annual allowance and spend the capital, it is highly sustainable.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research				X	
Inventory / GIS				X	
Field Surveys					X
Field Excavations				X	
Permitting / Compliance			X		
Conservation	X				
<i>Additional Information / Clarifications:</i> Members of our staff conduct extensive archival research before, during and after the field projects. Two of our research projects are purely archival research/library research based, aiming to produce typologies for ships and commercial containers. We do support an inventory project in the UK. However, the mission of our organization is to carry out fieldwork, and we are a very fieldwork oriented group. Our members have to acquire necessary permits, and produce required reports for government agencies in					

several countries, so permitting/compliance is also part of the work we perform on an annual basis.

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence			X		
Print Publications / Newsletters	X				
Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X

University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i> We keep the shipwreck positions in our database confidential to ensure the safety of the sites. However, we share many of other aspects of the ships and shipwrecks in our database when we receive trusted and serious enquiries. We also alert government agencies if the located site would benefit their awareness, intervention and/or management.			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	<b>Yes</b>	<b>No</b>
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms		X
State Agencies	X	
Federal Agencies		X
Foreign Governments	X	
Other (please explain below)		
<i>Additional Information / Clarifications:</i> We welcome the input of all contributors, however, the database is not open to all. We control access to the database. "Partnering" may not be the correct term, but I wanted to emphasize that the database has had many contributors.		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Our main cultural resource management policy concern is regarding our work in the Mediterranean/Europe. We feel that Unesco Convention on the Protection of the Underwater Cultural Heritage has had detrimental effects on our work, in many cases preventing access to the underwater sites, and debilitating fieldwork. This is mostly due to the interpretation of the convention by local government bodies, but this convention is our main problem, leading to

enormous loss of time and resources during the permit application process.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

We haven't been affected by any RECENT changes. Our current work (active projects) is mainly in Italy, UK and Norway, and legislation in these countries has been stable.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Our most important recent accomplishment has been to successfully incorporate a shipwreck database project in the UK. The database has been active since 15 years and has over 1200 entries (possible, verified, surveyed, excavated shipwrecks, or ship losses based on archival information). We recently hired several specialists to enlarge, maintain, populate and manage this database.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

We conduct work internationally with an international team. Increasingly, we feel that the tendency is to "nationalize" underwater archaeological work, which limits access of foreign organizations to cultural heritage in a specific country. Slight changes in the interpretation of existing legislature can have detrimental effects on the planning and execution of the projects.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Negative

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Rhode Island Marine Archaeology Project

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### 5. Which of these categories would best describe your organization or unit?

Non-Profit Research Institution

### 6. Briefly describe your organization's mission and or scope.

Study of local and regional maritime history and marine archaeology, using trained volunteers directed by professional historians and archaeologists. We have an educational component, continuing historical studies and archaeological fieldwork, and a thriving publication program

### 7. Briefly describe your organization's history.

20 years of activity

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors					
Interns		X			
Volunteers					X
<i>Additional Information / Clarifications:</i> We have trained more than 500 individuals to participate in our programs, and depending on funding hire additional staff for specific projects					

### 9. Institutional member levels, if applicable:

51-100

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Historians
- Archivists
- Architects
- Education / Outreach Specialists
- Administration / Support Staff
- Other

These are not paid positions unless we have grant funding for a specific project.

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect to see gradual growth in staffing levels.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

Many more qualified candidates than available positions.



**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants	X				
Affiliated Foundation					
External Foundation		X			
Private Contracts					
Public Donations			X		
Individual / Member Support			X		
Other					
<i>Additional Information / Clarifications:</i> I don't know what you mean by "Affiliated Foundation". On occasion we will do CRM contract work that is a source of funding for our projects.					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		
External Foundation		X
Private Contracts		X
Public Donations	X	
Individual / Member Support	X	
Other		
<i>Additional Information / Clarifications:</i> In the present economy, government support through grants has collapsed, and it looks like a while before that will bounce back.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys			X		
Field Excavations					
Permitting / Compliance					
Conservation					
<i>Additional Information / Clarifications:</i> These percentages are not usable because our ranges don't fit your options.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

We have plans to build our own conservation facility, and are in the process of raising those funds.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

Ditto Conservation facility

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence					X
Print Publications / Newsletters	X				
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i> We are very strong in public outreach.					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i> Our database is controlled by the SHPO			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments	X	
Other (please explain below)		
<i>Additional Information / Clarifications:</i> All of those categories have contributed information		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication						X		
Scholarly Print Publication						X		
Popular Digital Publication							X	
Scholarly Digital Publication								
<i>Name of Publication(s) / Additional Information:</i> See our website for a list of our publications, both professional and popular								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

A big problem is to get the state agencies responsible for site protection to do their job. Our SHPO claims they don't have the authority to close an area that is under active archaeological investigation or that is particularly significant and fragile. And the state Coastal Resources Management Council says they have the authority to protect submerged archaeological sites, but they balk when the time comes to implement that protection. It is frustrating because we are prominent target for wreck-raiders that come to our sites from all along the East Coast. Even if those agencies close sites to the general public, such policies are useless unless they can be enforced. Unfortunately, there is no practical means to catch folks who are vandalizing a submerged site, no one will press charges if they are caught because District Attorneys don't think their time should be spent on "frivolous" issues like the historic preservation of submerged cultural resources, and if the vandals are prosecuted, the penalties are not clear. That means wreck-raiders vandalize historic sites with impunity.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

We network aggressively with our federal and state legislators, especially to educate them about the importance of the area's maritime heritage and the necessity of protection.

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

State agencies are notoriously territorial and don't allow such intrusion, although we "lobby" aggressively so our legislators understand the importance of protecting our sites.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

The failure of the Abandoned Shipwreck Act to protect the Brother Jonathan was a wake-up call for us when we needed to protect a particularly important fleet of 18th-century vessels. We used the admiralty laws of salvage to control those sites instead, although we are doing archaeology and not salvage. The federal judge agreed that as archaeologists we were generating intellectual property that was as valuable (if not more so) than the retrieval and sale of artifacts as is done by more traditional salvors. That made some colleagues question our sanity, but if salvors have a stronger law to protect a site from outside intrusion, then it makes sense to use that, rather than the anemic historic preservation laws we usually rely on.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

In addition to our continuing historical studies, training program, archaeological fieldwork, and public outreach, we have begun the process to build a permanent conservation/education/display/storage facility that will manage collections and share our results with a wider audience.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Two problems [are of concern]: The difficulty of raising the necessary funding in the present economy. That will change in the future. The lack of well-trained conservators that are coming out of American institutions. [Not] convinced that we demand enough hard science of those students who plan to work as conservators, and [not] satisfied that those who consider themselves to be professional conservators are as knowledgeable as they should be. [There is no foreseeable] future improvement for this problem because of the woeful lack of educational rigor in the US.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Negative

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

There are too many university programs training too many students who think they are going to get work in this field. The universities are taking advantage of the ignorance of their young students by promising them something that can't be delivered -- all so professors can keep their jobs and universities can survive. And the students are not getting good training, even if there were jobs. It's a fraud.

## RPM Nautical Foundation

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### 5. Which of these categories would best describe your organization or unit?

Non-Profit Research Institution

### 6. Briefly describe your organization's mission and or scope.

RPM Nautical Foundation is a non-profit (US 501 c 3) research and educational organization that performs maritime archaeological research in the Mediterranean. Our supported institutions are the Program for Maritime Studies at East Carolina University, and the Institute of Nautical Archaeology. One of the primary goals of RPMNF is to assist Mediterranean countries with the mapping, identification, assessment, and research of their submerged cultural material. These projects, carried out in conjunction with host governments, are a crucial component in the effort to protect submerged archaeological sites and maritime heritage in the Mediterranean. All archaeological work is performed in conjunction with the host country's cultural authority and assists in both scholarly research and educational projects. As with all ventures, the standing policy with RPM is that all artifacts are under the jurisdiction of the host government at all times. The location and assessment data of wreck sites has proved beneficial to the many governments with which we have worked as it provides their cultural authorities pertinent information for protecting their archaeological resources. Bathymetric data is also made available to host country hydrographic departments in order to supplement their oceanographic mapping programs. RPMNF research vessel Hercules is flagged and based in Malta during the off-season, and is deployed throughout the Mediterranean on a project basis.

### 7. Briefly describe your organization's history.

RPM Nautical Foundation was founded in 2001 by INA Director George Robb as a non-profit research organization that sought to apply developing technologies in other oceanographic fields to Nautical Archaeology. With the appropriate equipment and methods, the aim was to move beyond the limits of typical archaeological diver depths while maintaining the standards that had been developed after decades of previous fieldwork. The challenge of applying a variety of existing technologies to archaeology that has a solid foundation in methodological theory and practice is a continual process of experimentation, learning, and adaptation. However, this process has led to sound methodological approaches and practices that have yielded significant archaeological results. Flagged and based in the central Mediterranean location of Malta, the foundation's research vessel Hercules can be deployed throughout the Mediterranean on a project-by-project basis. Since basing operations in the Mediterranean in 2003, RPMNF's remote sensing and verification methodology has proved successful in the identification, mapping, and recording of shipwreck sites and harbor works from the ancient through modern eras in project conducted in: Spain, Albania, Montenegro, Croatia, Malta, Morocco, Cyprus, Sicily, Amalfi and Calabria (Italy), and Turkey.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors			X		
Interns			X		
Volunteers					
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Administration / Support Staff
- Other

Ship crew

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					
Public Donations		X			
Individual / Member Support		X			
Other					X
<i>Additional Information / Clarifications:</i> Institute trust fund					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations	X	
Individual / Member Support	X	
Other	X	
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research					
Inventory / GIS		X			
Field Surveys				X	
Field Excavations		X			
Permitting / Compliance					
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence				X	
Print Publications / Newsletters			X		
Digital Publications / Newsletters				X	
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events			X		
Educational / Training sessions (at your organization)				X	
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			
State Agencies			
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments	X	
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication			X					
Scholarly Digital Publication				X				
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Impact of fishing activities, recreational divers, looters on sites; particularly in areas where



sufficient legal frameworks for the protection of cultural heritage is not in place.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Assisted in the initial legal framework drafts for the protection of submerged cultural heritage in Albania.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

One of the primary benefits to the governments of countries in the Mediterranean is the documentation of their rich cultural history associated with the sea. With shipwreck discoveries that date to as long as 3500 years ago, the Mediterranean is one of the richest and ancient regions of human seafaring. With such cultural riches comes the danger of looters who rob the world of this valuable and precious history. As such, the discovery, mapping, documentation, and study of all submerged cultural material in these country's waters is important so that they can be protected for proper study. Careful research, methodology, and professional publication allows each country to bring the shipwrecks with their artifacts to the public in a cultural and historical context so that they possess meaning.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding is always a crucial issue as operations incorporate highly technical equipment and specialist personnel in order to succeed. These operations expenses are costly and are the fundamental limit to activities.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Smithsonian's National Museum of American History

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### 5. Which of these categories would best describe your organization or unit?

Museum

### 6. Briefly describe your organization's mission and or scope.

Collect, preserve & interpret American History.

### 7. Briefly describe your organization's history.

Started in 1846 with a bequest from James Smithson, a British citizen who never set foot in the USA.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors					X
Interns					X
Volunteers					X
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

0-10

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Historians
- Archivists
- Architects
- Education / Outreach Specialists
- Administration / Support Staff
- Other

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect to see gradual decline in staffing levels.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants				X	
State Funds / Grants	X				
Affiliated Foundation		X			
External Foundation		X			
Private Contracts		X			
Public Donations		X			
Individual / Member Support		X			
Other		X			
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation	X	
External Foundation	X	
Private Contracts	X	
Public Donations	X	
Individual / Member Support	X	
Other	X	
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance		X			
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence			X		
Print Publications / Newsletters	X				
Digital Publications / Newsletters	X				
Newspaper Articles / Editorials / Blogs	X				
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)	X				
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication			X					
Scholarly Print Publication			X	X	X	X		
Popular Digital Publication			X					
Scholarly Digital Publication				X				
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Widespread international treasure hunting & recovery, and the sale and exhibition of salvaged materials.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

Yes

Self sustainment!

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Abandoned Shipwreck Act; Titanic Memorial Act; UNESCO Convention on the Protection of Underwater Cultural Heritage.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

My specific organization has not been directly affected by such changes.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The Smithsonian continues to speak out internationally against treasure hunting & recovery. SI Staff are in a unique position as scholars, wherein we can express our personal and professional opinions without being seen as representing institutional or federal policies or regulations.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding and staffing for the future are major concerns. Education of the public regarding the differences between treasure salvage and scientific archaeology.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

None.

## Underwater Archaeological Society of Chicago

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### 5. Which of these categories would best describe your organization or unit?

Avocational Volunteer Group

### 6. Briefly describe your organization's mission and or scope.

The Underwater Archaeological Society of Chicago (UASC) is a volunteer, not-for-profit organization dedicated to the study and preservation of Illinois' shipwrecks and other underwater cultural resources. The UASC conducts shipwreck site surveys which employ field drawings, underwater photography and videotape. Field survey work is augmented by academic historical research. The Society attempts to preserve sites by studying the effects of natural and biological forces as well as the impact of human activity on shipwrecks. It advocates responsible use of submerged cultural resources. Membership is open to everyone. The Society presents the opportunity to meet, work together, and socialize with others who share similar avocational interests. It allows members to apply their diving or other skills to group projects that produce site maps, published surveys, technical drawings and educational programs. The UASC shares the results of its work with the community through publications, museum exhibits and presentations to all interested public and private groups. Through its work, the Society hopes to add to the body of archaeological data available to local historians and maritime enthusiasts of future generations. It also seeks to enhance the enjoyment and value of local sport diving.

### 7. Briefly describe your organization's history.

The UASC began as a committee within the Chicago Maritime Society during the late 1980s and was incorporated as an independent, not for profit corporation in 1991. Since then, the UASC has surveyed over 40 shipwrecks and given hundreds of public presentations. Average yearly membership is about 100. Our primary source of funds is membership dues of \$35. Highlights have included surveying the wreck of the Lady Elgin on behalf of the State of Illinois as part of the court battle over ownership of the wreck. In addition to shipwrecks, the UASC has worked on geological surveys and has been involved with the intentional sinking of 4 vessels as new fish habitats as well as saving these vessels from the scrap yard.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff	X				
Contractors	X				
Interns	X				
Volunteers					X
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

N/A

\*Modified to 100 based on #7.

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists

- Cultural Resource Managers
- GIS / IT Specialists
- Historians
- Education / Outreach Specialists

None of these are paid positions

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Even distribution of qualified candidates and available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants	X				
State Funds / Grants	X				
Affiliated Foundation	X				
External Foundation	X				
Private Contracts	X				
Public Donations	X				
Individual / Member Support					X
Other		X			
<i>Additional Information / Clarifications:</i> A small percentage of our funding comes from the sale of reports and DVDs as well as honorariums for lectures					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts		
Public Donations		
Individual / Member Support	X	
Other	X	
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research			X		
Inventory / GIS		X			

Field Surveys			X		
Field Excavations	X				
Permitting / Compliance		X			
Conservation	X				
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence				X	
Print Publications / Newsletters		X			
Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events			X		
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response



**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication							X	
Popular Digital Publication							X	
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

It would help if the States of Illinois and Indiana had more clearly defined laws that the recreational diving public could understand and possibly respect more than they currently do.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Our most important recent accomplishments have been the intentional sinking of several historic vessels to save them from being scrapped. Perhaps our most important current project is the creation of a submerged cultural resources database.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

One of our greatest challenges is training new volunteers to conduct quality underwater surveys. We have recently started using the NAS training program, although the NAS standards and expectations are much lower than we have for our organizations work.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

The staffing questions did not really apply since we have no paid positions, but the survey required that I answer the questions to continue.

## Waitt Institute

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### 5. Which of these categories would best describe your organization or unit?

Non-Profit Research Institution

### 6. Briefly describe your organization's mission and or scope.

The mission of the Waitt Institute is to accelerate exploration of the deep sea by making enabling technologies and operational support available to the ocean science community.

### 7. Briefly describe your organization's history.

The Waitt Foundation and the Waitt Institute were established by Gateway Computer founder, Ted Waitt. The Foundation is now focused exclusively on making grants to NGOs and institutions for projects and programs related to marine protected areas (MPAs) and fisheries reform. The Waitt Institute was established as an operating foundation to coordinate and conduct oceanographic projects in the field.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors		X			
Interns		X			
Volunteers		X			
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- Administration / Support Staff

Waitt Institute has one archaeologist (with both underwater and terrestrial experience) on staff, one marine operations/logistics specialist, and one DSO.

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

Many more qualified candidates than available positions.

### 13. Please note your primary sources of funding.

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation				X	

External Foundation					
Private Contracts		X			
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i> The Waitt Institute is supported by the Waitt Foundation and by joint contracts with Woods Hole Oceanographic Institution (for AUV operations).					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation	X	
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research					
Inventory / GIS		X			
Field Surveys					X
Field Excavations		X			
Permitting / Compliance					
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence		X			
Social Media Presence			X		
Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations	X				
Community Events					X
Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

The Waitt Institute voluntarily complies with the UNESCO Convention 2001 and its Annex.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The Waitt Institute has focused primarily on AUV-based wide-area survey and mapping. A recent accomplishment involved the first-ever mapping of the HMS Titanic debris field, in partnership with WHOI, NPS, and NOAA. We believe that survey and inventory efforts are needed to inform conservation and preservation strategies and better enable agencies to manage their submerged cultural resources.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

In order for our AUV program to be sustainable, we need to secure contacts for funded scientific research. Reduced funding for the marine sciences translates into fewer survey opportunities.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

A positive trend is the intergration of natural and cultural marine resource studies. Maritime heritage can benefit (and benefit from) marine biological research (which is typically given funding priority over cultural heritage research). The community is beginning to realize that shipwrecks and the like are unique biological communities and integrated components of the benthic environment.

**Cultural Resource Management Firms or Firms with a Cultural Resource Management  
Division**

**Atkins North America, Inc.**


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**5. Which of these categories would best describe your organization or unit?**

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

**6. Briefly describe your organization's mission and or scope.**

Atkins is a for-profit business with worldwide operations in many engineering and environmental disciplines. Cultural resource management is one speciality area within a much larger environmental consulting branch of our business.

**7. Briefly describe your organization's history.**

Our company has performed marine archaeology since 1981. In the beginning, our archaeology division was part of a company called Espey, Huston & Associates, Inc., which was founded in 1977 in Austin, Texas and grew to have offices in Texas, Virginia, North Carolina, and Louisiana. In 1997, Espey, Huston & Associates was purchased by PBS&J, a nationwide firm based in Tampa, Florida. Then in 2010, PBS&J was purchased by Atkins, based in London, with over 18,000 employees based in offices worldwide. Our marine archaeological services have been based in Austin throughout this entire period. We have conducted marine archaeological and/or maritime heritage studies from New York to the Rio Grande and from Los Angeles to Seattle.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors	X				
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i> We currently have 3 salaried staff and one permanent part-time staff; other temporary part-time employees are hired as needed					

**9. Institutional member levels, if applicable:**

1000+

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Historians
- Archivists
- Architects
- Education / Outreach Specialists
- Administration / Support Staff
- Other



**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts				X	
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i> The national trend toward utilization of small businesses on federal [Indefinite Delivery/Indefinite Quantity] contracts has shifted the bulk of our funding to private sector contracts; all of our work is contracted; we do not typically apply for grants.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys					X
Field Excavations		X			
Permitting / Compliance		X			
Conservation					

*Additional Information / Clarifications:*

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole			X		
Website Presence			X		
Social Media Presence					X
Print Publications / Newsletters			X		
Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations			X		
Community Events				X	
Educational / Training sessions (at your organization)				X	
Educational / Training sessions (on location)				X	
Other #1 (please clarify below)					
Other #2 (please clarify below)					

*Additional Information / Clarifications:* Since we are a business, I interpret effectiveness as successful marketing strategies that bring funding into the company. So while we may value public outreach for other reasons, I scored it based on its effectiveness in reaching prospective clients.

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers		X	
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies	X		
Foreign Governments		X	
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication							X	
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

The level of Section 106 enforcement seems to vary significantly from state to state. This may change if more SHPOs hire qualified marine archaeologists to conduct reviews and develop state guidelines (consistent with states having long-established and successful guidelines) for preservation of maritime heritage.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

We have not been adversely affected. One recent positive development was the BOEM rule change requiring marine archaeology on all federally permitted bottom disturbances in the Gulf of Mexico.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

[Our] company's greatest contribution over the years has been promoting an effective methodology for archaeological interpretation of marine magnetic surveys. Improvements in marine survey technology are one of the greatest developments for the field as a whole.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Our company's greatest challenge has always been and will remain finding consistent sources of funding in a market where the number of trained professionals, competing for the same dollars, is steadily growing. There is a danger that too much competition, combined with regulatory holes in certain regions, at times may decrease the quality of the final product. Understandably, there is little incentive for industry to pay more than necessary to get their permit. Therefore, I think it is important that qualified maritime heritage professionals are hired into policy-making positions within SHPOs and federal agencies, and that these professionals communicate effectively to establish high standards nationwide.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**C & C Technologies, Inc. GeoSciences Division**


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**5. Which of these categories would best describe your organization or unit?**

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

**6. Briefly describe your organization's mission and or scope.**

Cultural resource assessments of industry surveys to meet federal, state, and local government compliance (primarily for marine surveys, but with occasional local terrestrial phase I surveys)

**7. Briefly describe your organization's history.**

Our company is primarily a hydrographic survey company founded in 1992. In 1998 the company hired two full time marine archaeologists under the GeoSciences Division, which conducted the reporting on marine geophysical surveys. Prior to 1998, the company contracted all archaeology work as needed. Other archaeologists were added after 2005.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors	X				
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i> There are other archaeologists we contract as needed, but quite infrequently					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Historians
- Other

Deep Water Archaeologists

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants	X				
Affiliated Foundation	X				

External Foundation	X				
Private Contracts					X
Public Donations	X				
Individual / Member Support	X				
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys				X	
Field Excavations		X			
Permitting / Compliance			X		
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole			X		
Website Presence		X			
Social Media Presence			X		
Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs				X	
Lectures / Presentations		X			
Community Events			X		
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers		X	
University/Non-Profit Affiliated Researchers		X	
Cultural Resource Management Firms		X	
State Agencies			X
Federal Agencies			X
Foreign Governments		X	
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication					X			
Scholarly Print Publication							X	
Popular Digital Publication						X		
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

There is a big imbalance regarding protection for cultural resources we find as a result of our survey work. The oil industry cannot disturb the cultural sites in anyway, but there is virtually no protection from other sources of disturb[ance] for most of the sites we find in federal waters.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

We have reviewed and commented on Federal regulations (NTLs) pertaining to cultural resource surveys from the U.S. Department of the Interior

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

In 2005, the former MMS (now BOEMRE) added over a 1000 deep water lease blocks to those



that required archeological surveys/assessments. The BOEMRE recently (March 2011) implemented new “guidelines” required archeological surveys/assessments for the entire Gulf of Mexico prior to any seafloor disturbing activity that falls under their jurisdiction. It is anticipated that these new guidelines will soon become regulations.

**28. Please discuss your organization’s most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Our company uses the survey industry’s most advanced survey technology for conducting deep water surveys (Autonomous Underwater Vehicles – AUVs). Although these AUVs were implemented primarily for other purposes, we as archaeologists have benefited greatly from their use. AUV surveys over the last 10 years have lead to numerous deep-water archaeological discoveries and allowed a level of remote assessment not previously possible. We have also conducted a number of deep water projects that have helped advance the field of archaeology in deep water.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

The greatest challenge we directly face is the support and funding to further study the deep water sites we find. Our industry clients seldom or never provide additional support for archaeological "study" after the initial discovery or investigation. They typically have an option to investigate or avoid the site and typically choose to avoid if at all possible. Nearly all funding we have received for additional archeological study comes from the federal government (e.g. BOEM, NOAA OER, NOPP). Federal funding is comparative and limited. Funding is one of the greatest challenges as a whole. The limited pie is split between many disciplines (e.g. archaeology, biology, oceanography, etc.) and archaeology seldom gets the biggest or even an equal slice. There is also very limited protection for cultural resources in federal waters. Nearly the only protection is non-disclosure of locations and if one person can find it, someone else can too.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**Dolan Research, Inc.****5. Which of these categories would best describe your organization or unit?**

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

**6. Briefly describe your organization's mission and or scope.**

Dolan Research, Inc. is an underwater archaeological consulting and remote sensing surveying firm, specializing in the identification, documentation and evaluation of submerged cultural resources. The firm has extensive experience in the study and interpretation of submerged cultural resources and all allied disciplines including marine survey, historical documentary research, magnetic, acoustic and sub-bottom remote sensing, underwater site excavation, artifact analysis, and archaeological data interpretation.

**7. Briefly describe your organization's history.**

Company was incorporated in PA in 1989.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors		X			
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

Underwater Archaeologists

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants			X		
State Funds / Grants		X			
Affiliated Foundation					
External Foundation					
Private Contracts			X		
Public Donations					

Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		X
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS	X				
Field Surveys			X		
Field Excavations		X			
Permitting / Compliance		X			
Conservation	X				
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole					X
Website Presence		X			
Social Media Presence					X

Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations			X		
Community Events					X
Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

We supplement our work load with commercial clients that utilize remote sensing technology as a solution for understanding bottom conditions at their facilities.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Not really

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Working with the US Navy, The State of Maryland, and the Maryland State Highway Administration, on the USS Scorpion project this past summer.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding is always an issue in CRM; but as long as the Section 106 process is maintained there should be sufficient sources of revenue to be viable. However, I would estimate that only 50% of our revenues now come from underwater archaeological projects. After 9/11 all submerged cultural resource work stopped for 12-18 months and we were forced to find other revenue streams to survive. By working with a variety of engineering firms we have now become involved with all types of remote sensing projects that include: bottom clearance surveys, identification of submerged utilities, located unexploded ordinance, and remote tank and pipeline inspections.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Fathom Research, LLC

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### 5. Which of these categories would best describe your organization or unit?

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

### 6. Briefly describe your organization's mission and or scope.

Dual mission: Applied Marine Science and Marine Archaeology Scope: Provide all phases of marine archaeological consultation and investigation services to federal, tribal, state, and local agencies and private proponents of offshore projects for which marine science and/or archaeology is needed to meet the requirements of federal, tribal and state historic preservation legislation.

### 7. Briefly describe your organization's history.

Fathom Research, LLC founded in 2002; applied marine archaeological consulting services added in April 2008.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors			X		
Interns		X			
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

0-10

\*Modified to [N/A] given private company status

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Other

Geophysicists, geologists, biologists, commercial divers

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect to see gradual growth in staffing levels.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

More positions than qualified candidates.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants	X				
State Funds / Grants	X				
Affiliated Foundation	X				
External Foundation	X				
Private Contracts					X
Public Donations	X				
Individual / Member Support	X				
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i> All but Private Contracts are n/a to Fathom's scope of services.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research					X
Inventory / GIS			X		
Field Surveys				X	
Field Excavations		X			
Permitting / Compliance					X
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence	X				
Social Media Presence					X
Print Publications / Newsletters					X
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs					X
Lectures / Presentations	X				
Community Events	X				
Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					X
Other #2 (please clarify below)					X
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			X
<i>Additional Information / Clarifications:</i>			



**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		X
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i> We produce technical reports that are sometimes used by clients and agencies to create popular or scholarly publications.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Most of our work is related to National Historic Preservation Act Section 106 compliance. Right now, only the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE [the former MMS]) has published minimum standards for marine archaeological identification surveys. It would be good if minimal survey standards could be developed by more of the State Historic Preservation Offices (SHPOs) and if the BOEMRE 30 m trackline spacing for magnetometer surveys in water depths of less than 100 ft could be reduced to a 50 ft trackline spacing and the side scan sonar coverage requirement increased to 200% coverage instead of just 100%.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

We [\*Removed due to the presence of personal information\*] were informally involved in the development of the Massachusetts' Board of Underwater Archaeological Resources Special Use Permit and I expect to be providing comments on the BOEMRE's newly published draft renewable energy guidelines for marine archaeological surveys.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No. We monitor and remain current with changes in legislation/regulations.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

I think the most important recent accomplishment (i.e., within the last 10 yrs) is the increased awareness and active research (both applied and academic) in submerged settlements archaeology, and the expanded involvement of Native American peoples in the identification and management of their submerged cultural heritage. I think submerged settlements archaeology is going to be an increasingly important element of maritime heritage management planning in the future.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Our greatest challenges are maintaining a steady workload and recruiting staff who are capable of performing CRM archaeology with minimum on-the-job training; it's been my experience that virtually no one coming out of undergrad or grad school is adequately educated or trained to do the job in CRM. This is hardly surprising given the lack of courses available to students in cultural resource management law, marine remote sensing, technical writing and technical diving. I think our greatest challenge is keeping maritime heritage preservation relevant and important to a citizenry that is faced with continuing economic hardship and that, frankly, has a population that is less and less connected with the sea and the nation's maritime history.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

The overwhelming majority of marine archaeological research that is performed in this country is related to compliance-driven CRM work, yet, and for reasons unknown, most in academia (and even some in government agencies who mandate, review, and, in some cases actually themselves do CRM archaeology) refuse to acknowledge this fact or that the work that is done in CRM is as significant or legitimate as academic archaeological research. I think this attitude is unfortunate and unproductive.

## **Fugro GeoServices, Inc.**

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### **5. Which of these categories would best describe your organization or unit?**

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

### **6. Briefly describe your organization's mission and or scope.**

We provide geophysical, geotechnical, and archaeological surveys in accordance with BOEMRE guidelines for the GOM OCS Region.

### **7. Briefly describe your organization's history.**

John Chance Land Surveys, Inc. was founded in 1957 as John E. Chance and Associates, a Lafayette-based survey firm supporting the oil and gas industry. In 1992, Chance sold the company to Fugro, a worldwide leader in survey, geotechnical, and geospatial services. Based in the Netherlands, Fugro provided the resources and vision to bring the company into the next century. Early on, John Chance positioned the company to capitalize on the booming oil and gas market in the Gulf South. He utilized his background in civil engineering and his forward-looking approach to business to make the company an astounding success. He was instrumental in the development of STARFIX positioning system, which revolutionized the seismic data collection industry. Prior to its development, vessels had to rely on shore-based transmissions, which were notoriously unreliable. STARFIX utilized satellite positioning which was at the cutting edge of survey technology during its development in 1986. STARFIX has undergone many updates and upgrades since its inception, and JCLS surveyors still use the system for a variety of applications today. In 1999, the company reached another milestone in its evolution when it was spun off into its own separate entity. The company was split into John Chance Land Surveys, FugroChance, and FugroGeoservices. This allowed the company to focus on its onshore and near-shore work, while allowing the sister companies to focus on the deeper offshore waters.

### **8. Staffing levels:**

	<b>N/A</b>	<b>1-3</b>	<b>4-6</b>	<b>7-10</b>	<b>10+</b>
Permanent Staff					X
Contractors			X		
Interns		X			
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

### **9. Institutional member levels, if applicable:**

0-10

### **10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					X
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys			X		
Field Excavations					
Permitting / Compliance			X		
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole			X		
Website Presence		X			
Social Media Presence				X	
Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations		X			
Community Events				X	
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)	X				
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers		X	
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms	X		

State Agencies	X		
Federal Agencies	X		
Foreign Governments			
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication					X			
Scholarly Print Publication						X		
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

We follow guidelines and regulations put forth by the various state agencies and the BOEMRE regulations for offshore surveys within the OCS region. There were gaps in the past, but seemingly regulations, both federal and state, have become more extensive and effective.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Added input for the new NTL concerning archaeological survey methodology and reporting concerning submerged cultural resources in the GOM OCS region.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Yes, have experienced increased demand for archaeological offshore surveys, especially in deeper waters, following new guideline put forth by the BOEMRE concerning high probability areas for the possible occurrence of submerged shipwrecks in the GOM OCS region.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The advancement of technology due to increased use of AUV's in offshore surveys. AUV utilization has increased data quality, data collection efficiency, and increased survey areas due to decreased survey times.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Biggest problem is finding funding for further research for submerged wrecks identified by remote sensing data. Many times the most cost effective plan of action is to just avoid wrecks, instead of opting for further survey collection (ROV video, still camera, etc.) that could positively identify wrecks observed on remote sensing data.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Geoscience Earth & Marine Services, Inc.

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### 5. Which of these categories would best describe your organization or unit?

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

### 6. Briefly describe your organization's mission and or scope.

GEMS specializes in geological, geophysical, geotechnical, and archaeological analyses that provide our clients with the insight to address their most critical issues. Our expertise lies in the realm of oil and gas exploration and development, particularly in environments with complex geologic and/or engineering challenges. Our services range from providing QA/QC for data acquisition endeavors to highly detailed integrated geologic and engineering studies for regional or site-specific purposes. We assist with permits and applications to governing and insuring agencies. We design and implement coring, lab, and survey programs in addition to analyses and interpretation. GEMS integrates the science of geology and geotechnics to master the art of seafloor engineering.

### 7. Briefly describe your organization's history.

Geoscience Earth & Marine Services, Inc. (GEMS) was founded in February, 1997, to provide geoscience support to the petroleum industry. Our company has grown from a few professional geoscientists and support personnel to a large, diverse group of professional geoscientists and geotechnical engineers, support staff, contract consultants, field quality control specialists, and administrative staff. GEMS joined Triton Group in January, 2008, and joined FORUM Energy Technologies in August 2010. Today, GEMS specializes in geological, geophysical, geotechnical, and archaeological analyses that provide our clients with a comprehensive, integrated report and the insight needed to address their critical concerns. In addition, GEMS provides project management and planning services, client field (QA/QC) representation, and professional consulting.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors		X			
Interns		X			
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- GIS / IT Specialists
- Administration / Support Staff
- Other

Geotechnical engineers, Geophysicists, and Geologists



**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see moderate to rapid growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more positions than qualified candidates.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants	X				
State Funds / Grants	X				
Affiliated Foundation	X				
External Foundation	X				
Private Contracts					X
Public Donations	X				
Individual / Member Support	X				
Other	X				
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys			X		
Field Excavations		X			
Permitting / Compliance			X		
Conservation	X				
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence			X		
Social Media Presence					X
Print Publications / Newsletters			X		
Digital Publications / Newsletters					X
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations	X				
Community Events					X
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers		X	
University/Non-Profit Affiliated Researchers		X	
Cultural Resource Management Firms		X	

State Agencies		X	
Federal Agencies	X		
Foreign Governments		X	
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		X
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

1. Lack of viable regulations regarding archaeological survey requirements in the Gulf of Mexico. 2. Lack of viable regulations regarding archaeological survey requirements on the Alaskan OCS. 3. Ownership issues regarding UCH on the OCS - these objects are technically "owned" by the Federal government, but not owned at the same time. 4. Lack of training grounds to bring archaeologists up to speed and get them trained to do this type of work. 5. Too many positions and too few qualified individuals to do the work. 6. A failure in PR to explain the value of our UCH to contractors, industry, and ROV pilots with whom we work daily.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Yes. The updated BOEMRE issued "Pre-Seabed Disturbance Mitigation" has altered our work dramatically. Previously only areas considered to be "high" potential areas on the OCS required archaeological review - now every portion of the OCS will have to be reviewed by an archaeologist.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

GEMS has helped spread the word about the importance of UCH through: 1. the creation (and one day soon the implementation) of SNOOP: Submerged Nautical Archaeology Orientation and Operations Program - available to all oil and gas personnel. One class is directed at ROV personnel, and the other at project management from operators. 2. The involvement and engagement of the public through public lectures and blogs (most recently with the New Orleans Geological Society on 6/6/11). 3. The implementation of a class with the Society for Underwater Technology on underwater archaeology being taught in September 2011 to oil and gas personnel. 4. The promotion and organization of the first 2 marine archaeology sessions at the largest oil and gas industry conference in the world (Offshore Technology Conference) in May 2011. 5. The consistent fight against the proposed Belitung Shipwreck exhibit. 6. The organization of a request to the then MMS (now BOEMRE) in 2008 to re-examine the current state of affairs in the oil and gas industry pursuant to archaeological resources. This is ongoing and has already resulted in changes. It is our hope that new regulations will be forthcoming which will close the gaps in the current requirements. 7. An initiative is currently underway for GEMS/FORUM to endorse the UNESCO Annex as its guiding document in u/w archaeology. 8. The implementation of an internship program at GEMS. The most important recent achievements in the field are: 1. The UNESCO Annex coming into force - although not a perfect document it provides guidance in many places where guidance does not exist. 2. The expansion of the field to new universities and programs - not to mention the creation of the first undergraduate program. 3. The expansion of public knowledge regarding the field and public buy in.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

1. Staffing. 2. Public awareness. 3. Inadequate legislation.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

As a contractor that also serves on several non-profit boards for both u/w archaeology and the oil and gas industry I am able to see the paradigm shift that has dramatically taken shape in the last 5 years. For the first time u/w archaeologists are becoming accepted members of the oil and gas industry - as well and vital scientists to the pursuit of managing our submerged cultural heritage. At this time the greatest challenge [...] ahead of us as a field is the lack of qualified students being produced by graduate programs around the country. The emphasis on CRM and remote sensing work has fallen by the wayside in the last several years and students are not learning what they need to learn in order to assist in pushing the field forward.

**L. A. Landry & Associates, Inc.****5. Which of these categories would best describe your organization or unit?**

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

**6. Briefly describe your organization's mission and or scope.**

L. A. Landry & Associates, Inc., is a minority-owned small business providing marine archeological interpretive services and coastal anthropological and historical research to private industry and government agencies. We specialize in the interpretation of high resolution geophysical data from echo sounders, side scan sonar, magnetometers, and subbottom profilers. Recent experience includes participation in the preparation of second-party and third-party EISs for offshore pipeline projects in the Gulf of Mexico and the Atlantic coast of Florida assessing project impacts on onshore and offshore cultural resources, and ROV and AUV investigations for deepwater projects in the Gulf of Mexico.

**7. Briefly describe your organization's history.**

Laura A. Landry has owned and operated L. A. Landry & Associates, Inc., since 1992. Ms. Landry's field experience is comprised of more than 25 years of participation in terrestrial and underwater cultural resources projects in Louisiana, Texas, Mississippi, Alabama, Florida, Oklahoma and Kansas. Prior management experience as historic site manager of the Plaquemine Lock State Commemorative Area for the Louisiana Office of State Parks focused on the operations and maintenance of the state commemorative area, curation of accessions, research studies, exhibit planning, and development of interpretive brochures and tours.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors	X				
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Cultural Resource Managers
- Other

1 Geologist

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					X
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS					
Field Surveys		X			
Field Excavations					
Permitting / Compliance				X	
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence			X		
Social Media Presence			X		
Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations		X			
Community Events		X			
Educational / Training sessions (at your organization)		X			
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)				X	
Other #2 (please clarify below)				X	
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X
Other (please explain below)			X
<i>Additional Information / Clarifications:</i>			



**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		X
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication							X	
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

[The organization's] work in cultural resources management is implemented by the existing federal and state regulations. Recent changes in BOEMRE's archaeological policy for deepwater work in the Gulf of Mexico now provide a geographically comprehensive framework for conducting archaeological work in this area in support of the National Environmental Policy Act and other archaeological legislation.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Remotely operated vehicle (ROV) archaeological surveys in the Gulf of Mexico issued by the Minerals Management Service, now the Bureau of Ocean Management, Regulation, and Environment.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

BOEMRE's recent notice to comply with NEPA effectively opened up the entire Gulf of Mexico to archaeological assessments, effectively expanding the need for our services.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

We are currently working with [...] GEMS, Houston, in developing an archeological training course for ROV operators and key permitting personnel in private industry. Professional papers and presentations expand the public awareness of marine heritage. Our service on the Board of Directors for the Southwestern Underwater Archaeological Society, an organization of trained divers in Texas dedicated to providing volunteer services for shipwreck mapping projects with the Texas Historical Commission has resulted in a number of our members now serving as Marine Archaeological Stewards.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Staffing may become an issue if the work load increases to more than what our small staff can reasonably handle.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

[There is] a strong need to train young marine archaeologists for a responsible role in cultural resources management work offshore. In addition to learning how to design and conduct marine archaeological remote sensing surveys, interpret remote sensing data, and write reports, a strong understanding of the legal framework permitting such work is necessary. Young archaeologists also need to learn to work within the multidisciplinary framework of the current CRM environment.

## Marine Surveys, LLC

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### 5. Which of these categories would best describe your organization or unit?

[Cultural Resource Management Firm OR Firm with Cultural Resource Management Division]

### 6. Briefly describe your organization's mission and or scope.

Marine Surveys, LLC (part of the Silveti Group of Companies) provides world-wide support for satellite positioning of marine vessels acquiring 3-D seafloor and sub-seafloor stratigraphic imagery. Underwater surveys employ advanced state-of-the-art systems including 3-D swath bathymetry, side scan sonar mosaics, magnetic contour maps, 3-D high frequency subbottom profiles, and time migrated, 48-channel seismic sets with penetration of 1500m below mudline. Offshore projects include marine archaeological surveys for shipwreck and prehistoric site assessments; seafloor hazard surveys of mudslides and sediment instabilities; seafloor biological reef and scarp mapping; magnetic contour maps for analyzing buried modern infrastructure, shipwrecks, relict channel fill, and near-seafloor gas percolation; sub-seafloor mapping of former glacial river beds; acquisition of high-pressure gas anomalies, bright-spot reservoir detailing, and fault mapping.

### 7. Briefly describe your organization's history.

With over 150+ years of experienced personnel in the marine surveying, navigation, positioning and sonar services industries, the Silveti Group of Companies incorporated in 2002. Our commitment to a “Zero Tolerance” equipment downtime policy through the provision of critical path equipment redundancy ensures our customers the best performance, every time! The keystone to the entire JD Silveti Group of Companies’ operations is our HS&E Program. This program is centered on the belief that “all accidents are avoidable and preventable!” The Group is dedicated to TOTAL CUSTOMER PERFORMANCE, which means not just a quality work product, but a quality work product that is provided in unison with absolute personal safety. Marine Surveys LLC was formed as part of the Silveti Group of Companies in 2006 with a primary focus on Geophysical Services. Marine Surveys Project Management Teams are experienced in marine surveying projects from the shallowest waters to thousands of feet. The R/V Persistence serves as our flagship for geophysical acquisition services. As a member of the JD Silveti Group of Companies, Marine Surveys supports the “Zero Tolerance” downtime commitment through critical path redundancy and the “Zero Tolerance” Policy inherent in our HS&E Program. Safety through Commitment!

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors		X			
Interns		X			
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					X
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research					
Inventory / GIS					
Field Surveys				X	
Field Excavations					
Permitting / Compliance				X	
Conservation					
<i>Additional Information / Clarifications:</i>					



Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Strict compliance with BOEM federal regulations on the OCS submerged lands in USA territorial waters. Strict compliance with coastal state archaeological guideleines.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

All United States Department of the Interior OCS cultural resource management laws and regulations since 1973.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Identification of numerous shipwrecks with recommendations for protective measures.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

The greatest challenge is to overcome the disastrous Federal moratorium over the OCS oil and gas leasing program in the northern Gulf of Mexico. Massive job lay-offs have occurred throughout the offshore surveying sector as a direct result of the moratorium that drastically reduced the need and performance of marine archaeological surveys prior to lease development. These surveys have been the primary method for locating and protecting shipwrecks in the Gulf of Mexico. Virtually all of the major shipwreck discoveries in the Gulf of Mexico have been a direct result of marine archaeological surveys required across the federal OCS submerged lands since 1973.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Mid-Atlantic Technology and Environmental Research

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### 5. Which of these categories would best describe your organization or unit?

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

### 6. Briefly describe your organization's mission and or scope.

Marine Remote Sensing and Contract UW Archaeology

### 7. Briefly describe your organization's history.

Formed 1992

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors		X			
Interns					
Volunteers					
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Historians
- Administration / Support Staff

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

More qualified candidates than available positions.

### 13. Please note your primary sources of funding.

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants			X		
State Funds / Grants		X			
Affiliated Foundation					
External Foundation					
Private Contracts		X			
Public Donations					



Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		X
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research			X		
Inventory / GIS		X			
Field Surveys				X	
Field Excavations		X			
Permitting / Compliance				X	
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole				X	
Website Presence		X			

Social Media Presence				X	
Print Publications / Newsletters					
Digital Publications / Newsletters				X	
Newspaper Articles / Editorials / Blogs				X	
Lectures / Presentations				X	
Community Events				X	
Educational / Training sessions (at your organization)				X	
Educational / Training sessions (on location)				X	
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

No Response

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

The Abandoned Shipwreck Act (Pub.L. 100-298; 43 U.S.C. 2101-2106) review and comment only.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

More stringent requirements by individual States.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

No Response

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

No Response

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

No Response

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**Panamerican Consultants, Inc.**


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**5. Which of these categories would best describe your organization or unit?**

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

**6. Briefly describe your organization's mission and or scope.**

Cultural resources management firm specializing in archaeology, maritime archaeology, and architectural history. Classified as a for-profit, small business, we essentially conduct investigations associated with the Section 106 process but also volunteer with university projects. With one of the largest professional underwater archaeological staffs of any CRM firm in the United States, Panamerican's submerged cultural resources capabilities and equipment encompass all levels and types of investigations. These include archival and historic research, remote sensing survey and data analysis, underwater target and anomaly location and identification, assessment of potential significance of underwater sites and features, site testing, and data recovery. Our contracts have been conducted in offshore, coastal, estuarine, and riverine environments throughout the Atlantic, Gulf of Mexico, and Pacific seaboard of the United States, the Great Lakes, and the Caribbean.

**7. Briefly describe your organization's history.**

Panamerican, is a State of Alabama registered corporation specializing in CRM and archaeological research. Formed in 1989, Panamerican is an extremely stable company with more than 23 years of CRM experience. Headquartered in Tuscaloosa, Alabama, Panamerican has major branch offices in Buffalo, New York; Memphis, Tennessee; and Tampa, Florida. There are five principals and seventy-two full time employees including fully qualified archaeologists, historians, architectural historians, editors, accountants, and support staff

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors					
Interns					
Volunteers					
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Curators
- Historians
- Archivists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants			X		
State Funds / Grants			X		
Affiliated Foundation					
External Foundation					
Private Contracts			X		
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		
External Foundation		
Private Contracts		X
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i> Work while it is sustainable it is not always reliable. It is a constant evolution of "funding" sources.		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys				X	
Field Excavations		X			
Permitting / Compliance					X
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole			X		
Website Presence	X				
Social Media Presence	X				
Print Publications / Newsletters			X		
Digital Publications / Newsletters				X	
Newspaper Articles / Editorials / Blogs				X	
Lectures / Presentations		X			
Community Events			X		
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers	X		
Cultural Resource Management Firms			X

State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		
State Agencies	X	
Federal Agencies	X	
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication							X	
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

None

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The call for some federal and state agencies to actively prospect for submerged prehistoric sites where as before it was only submerged historic sites (i.e., shipwrecks) is a growing and exciting focus. We have been at the forefront of this focus at least in Florida.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Funding is the greatest challenge[...]. Both the Federal and state agencies have cut funding associated with projects and associated Section 106 compliance. The economic state does not bode well for the near future for funding levels to stay the same or be increased.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response



## Plateau Archaeological Investigations, LLC

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### 5. Which of these categories would best describe your organization or unit?

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

### 6. Briefly describe your organization's mission and or scope.

We conduct cultural resource survey and consulting and archaeological investigations in the Plateau cultural region of Washington, Oregon, and Idaho. This work includes Section 106, SEPA, NEPA, and JARPA surveys for federal and state agencies, municipalities, utility companies, engineering firms, and private organizations. Our reports satisfy the requirements of any funding agencies, state departments or agencies, and any tribal entities who may comment as interested parties.

### 7. Briefly describe your organization's history.

Plateau began in 1998 as a sole-proprietorship and was reorganized in 2005 as a limited liability company. Our current staff includes nine archaeologists with Master's degrees (five of which are pursuing PhDs), one historian, and three other support staff with backgrounds in cultural resources.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors		X			
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i> Permanent staff numbers are based on full time equivalency.					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Historians
- Administration / Support Staff

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants			X		
Affiliated Foundation					
External Foundation					
Private Contracts		X			
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research	X				
Inventory / GIS		X	X		
Field Surveys			X		
Field Excavations					
Permitting / Compliance					
Conservation					
<i>Additional Information / Clarifications:</i> Unfortunately, very little underwater archaeology is done in this area. We conduct a small amount of this work, but the vast majority of our work is terrestrial. In spite of the fact that the Columbia River and its tributaries such as the Snake River are inundated behind hydroelectric projects, the federal agencies have been able to avoid conducting research related to the impacts of these projects on inundated Native American and early historic sites.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole					
Website Presence		X		X	
Social Media Presence	X		X		X
Print Publications / Newsletters		X		X	
Digital Publications / Newsletters		X		X	
Newspaper Articles / Editorials / Blogs		X		X	
Lectures / Presentations		X		X	
Community Events		X		X	
Educational / Training sessions (at your organization)		X		X	
Educational / Training sessions (on location)	X		X		X
Other #1 (please clarify below)	X		X		X
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Yes, as stated in an earlier message box, the federal and state agencies convey (perceived by a lack of other formal messages) that inundated sites are not important or worth considering. Out of sight, out of mind?

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Members of our team have been involved in volunteer efforts at locating underwater resources along the Oregon Coast. While this is outside of our general area that Plateau Archaeological Investigations services, we see this effort as a manner in which we can increase the interest in these types of resources.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Again, one weakness is in the federal and state agencies lack of understanding that submerged sites may be just as significant as terrestrial sites, and that inundated sites are subject to impacts also. The other challenge is that terrestrial archaeologists think underwater work is just a matter

of putting on scuba gear and swimming around. They do not understand, or acknowledge, that underwater survey and site recording requires special skills and an understanding of the changes in depth perception, color, etc. Many terrestrial archaeologists think that a quick tutorial by a skilled and experienced underwater archaeologist will be enough for them to conduct survey and recording of resources.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

I see positive changes in specific regions (Hawaii, Gulf Coast), but not in the Northwest.

**R. Christopher Goodwin & Associates, Inc.**


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**5. Which of these categories would best describe your organization or unit?**

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

**6. Briefly describe your organization's mission and or scope.**

To provide cultural resources management, preservation planning and permitting services to our clients nationwide and OCONUS; to provide stewardship of archeological and historical resources.

**7. Briefly describe your organization's history.**

Thirty years old, founded in New Orleans in 1981. Offices in Louisiana, Maryland, Florida, Kansas and New Mexico. Over 125 preservation professionals in the disciplines of archeology, architectural history, history, preservation planning, GIS and computer aided drafting and design. Nautical archeology program provides remote sensing services, third party remote sensing data analyses, diving investigations and planning services for maritime and coastal projects.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors					
Interns					
Volunteers					
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Historians
- Archivists
- Architects
- Education / Outreach Specialists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see moderate to rapid growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Even distribution of qualified candidates and available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants			X		
State Funds / Grants		X			
Affiliated Foundation					
External Foundation					
Private Contracts				X	
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance		X			
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole	X				
Website Presence			X		
Social Media Presence			X		
Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations			X		
Community Events			X		
Educational / Training sessions (at your organization)	X				
Educational / Training sessions (on location)	X				
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms		X	
State Agencies			X
Federal Agencies			X
Foreign Governments		X	
Other (please explain below)			
<i>Additional Information / Clarifications:</i> Many of our projects are confidential and data cannot be shared without agency or client consent.			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X



University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		X
<i>Additional Information / Clarifications:</i>		

22. Does your organization regularly put out popular or scholarly publications?

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication							X	
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

No Response

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Discovery of important shipwrecks during remote sensing surveys; assisting in redesign of projects to avoid effects to them. In terms of the field as a whole, improvement in ROV technologies and concomitant decrease in cost has opened up deeper water to reliable imaging of drowned watercraft.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Continuing concern about shifting congressional priorities deemphasizing cultural resources regulations and/or cutting funding for enforcement.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**South Eastern Archaeological Services, Inc.**


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**5. Which of these categories would best describe your organization or unit?**

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

**6. Briefly describe your organization's mission and or scope.**

SEAS is designed to conduct maritime archaeological research projects for academic institutions, governmental agencies, and marine research centers. SEAS also provides key personnel for other CRM firms seeking project specific expertise. SEAS also creates research programs for independent agencies seeking to have in-house program capabilities.

**7. Briefly describe your organization's history.**

SEAS was established in 1999 to conduct maritime archaeological research in St. Augustine, Florida. In the course of that project SEAS helped create the Lighthouse Archaeological Maritime Program for the St. Augustine Lighthouse. SEAS has provided key personnel for the CSS Alabama Project in Cherbourg, France and is currently directing the Tampa Bay Shipwreck Survey for the Florida Aquarium.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors					
Interns					
Volunteers					
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Historians
- Education / Outreach Specialists

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants			X		
Affiliated Foundation					

External Foundation					
Private Contracts		X			
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		X
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS					
Field Surveys		X			
Field Excavations			X		
Permitting / Compliance					
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence		X			
Social Media Presence			X		
Print Publications / Newsletters		X			
Digital Publications / Newsletters					
Newspaper Articles / Editorials / Blogs		X			
Lectures / Presentations					
Community Events					
Educational / Training sessions (at your organization)					
Educational / Training sessions (on location)		X			
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication						X		
Popular Digital Publication								
Scholarly Digital Publication						X		
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

No Response

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

The recent legislative cut backs on preservation funding as a whole has greatly limited our field work in Tampa Bay as well as preventing the initiation of a site specific investigation in Cedar Key.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The most important recent achievement of SEAS is the location and identification of the first two blockade-runners to be found in Florida. Both of these sites have been recorded in detail, although a lack of funding has prohibited full recordation of one of these sites. Two other potential runners have also been located but have not been fully recorded. These sites are beginning to shed new light on the role Florida played in maritime aspect of the Civil War. SEAS is also currently involved in creating a maritime archaeological preserve for the State of Florida. This site is the vessel remains of the USS Narcissus, a Union tugboat that participated in the assault on Mobile Bay. The preserve will offer recreational divers a chance to visit a significant site that is fully documented and protected by state and federal law.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

The greatest challenge at this time is the lack of available funding from grant sources, especially at the state level. While public awareness and interest has increased, the resources for ongoing research has adversely affected the ability of professional research organizations to continue to survey, locate, and identify additional sites to present in a public venue.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**Southeastern Archaeological Research, Inc.**


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**5. Which of these categories would best describe your organization or unit?**

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

**6. Briefly describe your organization's mission and or scope.**

Southeastern Archaeological Research, Inc. (SEARCH) provides a single source for expert services in the fields of Archaeology, Architectural History, and Maritime Archaeology.

**7. Briefly describe your organization's history.**

Founded in 1992 by Dr. Anne Stokes, SEARCH has conducted over 2,000 projects worldwide.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff			X		
Contractors	X				
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

51-100

\*Modified to [N/A] due to private company status

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Historians
- Archivists
- Education / Outreach Specialists
- Administration / Support Staff
- Other
- Architectural Historians

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

More positions than qualified candidates.



**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants					
State Funds / Grants					
Affiliated Foundation					
External Foundation					
Private Contracts					X
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research			X		
Inventory / GIS				X	
Field Surveys					X
Field Excavations		X			
Permitting / Compliance					X
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole		X			
Website Presence		X			
Social Media Presence			X		
Print Publications / Newsletters			X		
Digital Publications / Newsletters			X		
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations				X	
Community Events				X	
Educational / Training sessions (at your organization)				X	
Educational / Training sessions (on location)				X	
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies	X		
Federal Agencies	X		
Foreign Governments			X
Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers	X	
University/Non-Profit Organizations		X
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments	X	
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication							X	
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Marine remote sensing survey standards for submerged cultural resources need to be standard across all states, regions.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Recent changes to BOEMRE laws on the OCS has increased our business.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural**

**resources. What do you see as the most important recent achievements of the field as a whole?**

SEARCH's scientific diving program has been accredited by AAUS as well as by NOAA.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

There are not enough qualified maritime archaeologists in the field to fill all of the positions. There may be people looking for a job, but they aren't qualified.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## **SWCA Environmental Consultants, Cultural Resources**

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### **5. Which of these categories would best describe your organization or unit?**

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

### **6. Briefly describe your organization's mission and or scope.**

For almost three decades, SWCA has provided comprehensive environmental planning, regulatory compliance and natural and cultural resource management services to businesses and government clients across the United States. We are an employee-owned firm of scientists, planners, and technical specialists. We combine scientific expertise with sound technical skills to provide solutions to a full spectrum of environmental projects. Headquartered in Phoenix, Arizona, SWCA has more than 20 offices throughout the United States and the Pacific Islands. With such a large number of geographically diverse offices, we're able to rapidly pool resources in order to serve clients from our main business lines, including mining, Department of Defense, energy generation, oil and gas, transmission, federal land management, and transportation.

### **7. Briefly describe your organization's history.**

It Starts With An Office In A Closet in Flagstaff. SWCA traces its roots back to 1981. At that time, Dr. Steven W. Carothers (the "SWC" in SWCA), an ornithologist and ecologist in Flagstaff, Arizona, left the Museum of Northern Arizona and started a one-man consulting business above Martan's restaurant on San Francisco Street. The Martan's space was initially made available rent-free by renowned photographer John Running, who at the time was leasing quite a bit of space above the restaurant for his studio and dark room. He and Steve were already friends at that time, and John generously made a fairly large closet available to Steve so he could have a place to work. At the Museum, where he had been working since 1967, Steve developed a biological contracting program primarily working with federal land management agencies. While the Colorado River through Grand Canyon National Park was a focus of his research, he also had work from the U. S. Forest Service in Central Arizona, studying the effects of Verde River phreatophyte control projects (cutting down riparian habitat to save water) on bird populations as well as a project on the wildlife of the Gila River in far Eastern Arizona, studying the impacts of the proposed Hooker Dam on downstream environments. Although the Museum was in full support of Steve's federal contracts and the energy he brought to expanding the Museum's scientific services, it was his interest in the private sector and a consulting contract on a housing development on the west side of Tucson that led to his break with the Museum. During the early 1980s, the Estes Company had several housing projects underway, including the Pusch Ridge project – a high end, gated community that was planned to have more than 100 homes on the west flank of the Catalina Mountains between Pusch Ridge and Oracle Road. After one of the Museum directors took offense at the idea of a museum biologist lowering himself to actually work for a developer, the embryo of a break between SWC and the Museum was formed. The Growth of a Business. By 1984, with the business starting to grow, and with several employees in Flagstaff (having moved from above the restaurant to a stand-alone location on Humphrey Street), Steve decided to incorporate his fledgling business as SWCA, Inc. Environmental Consultants. Later that same year, a Tucson office was opened and several additional staff were hired. While the Flagstaff office continued to work on federal projects, the Tucson office was more oriented towards private sector work, primarily biological studies for land development clients (largely as a result of the work at Pusch Ridge). At the time, SWCA was populated with scientists, but our business acumen was not the greatest – other than knowing that we needed to bring in more money than we spent – and the period of 1985-1987

was financially challenging. However, our people knew that there was a good business opportunity in what we were doing, and that we could make a difference in how natural resources were managed on both public and private lands. One opportunity that we identified was in Tucson as a result of large land development. We noted that wildlife values were being lost through the clearing of land; therefore, we sought to quantify the wildlife value of native habitats. This not only led to peer-reviewed publications (something SWCA continues to encourage among its staff), but it also led to the development of an entire industry – the transplanting of mature native desert trees. While this business provided the bulk of our revenues in 1986 and 1987, the business quickly became highly competitive, and some of our competitors were more concerned about transplanting trees cheaply than with keeping them alive in the long term so that they can provide wildlife value in future years. While SWCA prided itself on an exceptionally high survival rate for transplanted native trees, this came at a significant cost; and when low-cost competitors entered the market, SWCA was soon priced out. This was an important business lesson for the young company. Meanwhile, the Flagstaff office continued to provide services associated with federal land management, including compliance with the Clean Water Act, Endangered Species Act, and National Environmental Policy Act. As early as 1988, the basic framework for the modern SWCA was established, with one major exception – cultural resources. Cultural Resources Joins the Family. By 1988, the company had grown to approximately 20 employees. While SWCA was offering a suite of natural resource consulting services, we continued to subcontract out cultural resources work to other firms, as we had no cultural resources personnel on staff. Later that year, the opportunity presented itself when the Museum of Northern Arizona decided to terminate its archaeology program, and SWCA quickly hired archaeologists from that program (and others) in both our Flagstaff and Tucson offices. The modern SWCA was complete; and while we hadn't yet developed our tagline of "Sound Science, Creative Solutions," the sentiment and its application were established at that time. We weren't going to be the "low bid" provider of environmental consulting services (as we learned from the tree transplant business), but rather we were going to provide high-quality services to our clients. This set the stage for significant growth, and by 1991, the company expanded to offices in Albuquerque, Austin, and Salt Lake City; and we recorded \$5 million in annual revenue – 10 times the revenue we earned just five years before. The company continued to grow through the 1990s, albeit at a slower pace, and the Principals of the company started discussions with Steve about ownership and management transition. We had grown to approximately 150 employees, adding offices in Denver, Houston, Phoenix, Durango, Las Vegas, and San Antonio. In 1998, after several years of discussion, SWCA became one of the first companies to take advantage of the change in federal laws concerning S Corporations and ESOPs (Employee Stock Ownership Plans), and we initiated the process of buying ourselves from the owners (the vast majority of which was owned by Steve). The company was appraised and took the bold step of incrementally buying all of the stock over the course of the next 18 months. By the year 2000, the company became 100 percent employee-owned. Once again, the company's growth accelerated, both in terms of annual revenues and the number of employees; and we nearly tripled the size of the company in a few short years. Looking Ahead SWCA's growth continues, as we've added offices in Bismarck, Sheridan, Honolulu, Guam, Portland, Pasadena, San Luis Obispo, Half Moon Bay, Logan, Vernal, and, most recently, Seattle. While some of these offices were established organically, others were the result of acquisitions. SWCA also added to its Board of Directors; specifically, we added outside directors, who use their unique experiences and perspectives to advise us on how to improve the operations of our company. As we have grown, we have had to change and adapt our corporate systems of information technology and finance, improve our human resources capabilities, and expand our

marketing efforts. But despite all these changes, the company fundamentally adheres to the principles that Steve set forth so many years ago. SWCA strives to provide Sound Science and Creative Solutions in all that we do – whether we are conducting Marianas fruit bat surveys in Guam; wetland surveys for a proposed natural gas pipeline outside of Houston; stream surveys for a timber sale Environmental Impact Statement on Wrangell Island, Alaska; or documenting the architectural history of buildings in downtown Los Angeles. It is our intention to continue doing this, while we grow and make SWCA all that it can be in the years to come.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors					
Interns					
Volunteers					
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Historians
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect to see gradual growth in staffing levels.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Even distribution of qualified candidates and available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants		X			
Affiliated Foundation	X				
External Foundation	X				
Private Contracts					X
Public Donations	X				
Individual / Member Support	X				
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys					X
Field Excavations		X			
Permitting / Compliance					X
Conservation					
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility, but it does not fully meet our needs.

Depending on the location of the project. Certain offices have curations facilities while others do not.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole			X		
Website Presence			X		
Social Media Presence					X
Print Publications / Newsletters			X		
Digital Publications /			X		



Newsletters					
Newspaper Articles / Editorials / Blogs					X
Lectures / Presentations			X		
Community Events			X		
Educational / Training sessions (at your organization)					X
Educational / Training sessions (on location)					X
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i> Public outreach efforts are very much dependent upon the projects and location. If a project produces significant data or exciting results then a greater public outreach effort is undertaken. Projects with little or no data often do not result in any outreach efforts.					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

No

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

No Response

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

No Response

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

We have not faced any policy or legislative challenges at this stage of our development.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No, not as of yet.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Even though the maritime division of our cultural resources program is still in it's nascent stage we have been fortunate to participate in a number of exciting projects. Our most recent accomplishment is our work in the Pacific Northwest in areas where maritime archaeology has not been traditionally practiced as part of the regulatory process. Our work is illustrating the importance and potential significance that maritime archaeology has. On a larger scale, [...] there are numerous recent achievements in maritime archaeology. [Particularly exciting is] the continual work to identify, analyze, and quantify submerged prehistoric sites. This work is changing the way archaeologists perceive coastal migrations and prehistoric populations in general.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Perhaps the greatest challenge we face is the lack of public awareness concerning maritime resources and the need to protect these resources. As a cultural resource manager, it is my job to work with public and private agencies to balance the needs of ongoing projects with the protection of cultural resources. Unfortunately, submerged cultural resources have been commonly overlooked in our field and are often not considered during the planning and survey stages of many projects. Submerged prehistoric sites are particularly overlooked in this situations. Fortunately, a growing change among professionals in our field [is apparent] and more emphasis is being placed upon the identification and preservation of our maritime heritage. If this change continues, our field will expand and methods improve in preserving our resources.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## Tesla Offshore, LLC

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### 5. Which of these categories would best describe your organization or unit?

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

### 6. Briefly describe your organization's mission and or scope.

Tesla Offshore, LLC is a marine survey company specializing in geophysical and marine construction surveying. Geophysical services are primarily focused in the U.S. Gulf of Mexico and are designed to evaluate hazards and archaeological concerns in advance of offshore oil and gas development. Tesla Offshore Mission Statement: It is the mission of Tesla Offshore to utilize ethical and sound business practices to provide an unparalleled balance between: • Meeting or exceeding the Stated Objectives of Our Customers • Upholding the Responsible Intentions of the Regulatory Entities that Govern Our Industry • Providing for the Employees And Owners of Our Company All within a safe and respectful work environment.

### 7. Briefly describe your organization's history.

Tesla Offshore, LLC was formed in 2004. The key personnel who started Tesla had worked together in previous organizations dating back as far as 1976, and put their experience into a new venture aimed at detail-oriented customer service.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors			X		
Interns	X				
Volunteers	X				
<i>Additional Information / Clarifications:</i> We employ 3 full time permanent archaeologists					

### 9. Institutional member levels, if applicable:

N/A

### 10. What kind of specialists are employed by your organization?

- Underwater Archaeologists
- GIS / IT Specialists
- Administration / Support Staff
- Other

We also employ professional surveyors and drafting personnel.

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

### 12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?

More qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		X			
State Funds / Grants	X				
Affiliated Foundation	X				
External Foundation	X				
Private Contracts					X
Public Donations	X				
Individual / Member Support	X				
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants		X
State Funds / Grants		
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys					X
Field Excavations	X				
Permitting / Compliance				X	
Conservation	X				
<i>Additional Information / Clarifications:</i> We also conduct Phase II equivalent, non-invasive diver and ROV investigations.					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

No, our organization does not currently have a conservation facility.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole			X		
Website Presence			X		
Social Media Presence					X
Print Publications / Newsletters					X
Digital Publications / Newsletters					X
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations		X			
Community Events			X		
Educational / Training sessions (at your organization)			X		
Educational / Training sessions (on location)			X		
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i> Our archaeological staff regularly present at professional conferences (archaeological, geological, industry-related) and participate in community based events and local archaeological society meetings. Our archaeologists are encouraged to publish but this is not a requirement of employment.					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X

Other (please explain below)			
<i>Additional Information / Clarifications:</i> The majority of our data is proprietary to the client and may only be used with their permission.			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i> We maintain our own database of sites that have been discovered through our surveys, but utilize federal and state databases for research and survey planning purposes.		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication							X	
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i> Our archaeologists are encouraged to publish but this is not a requirement of employment.								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

There is a gap in protection for shipwrecks on the Gulf of Mexico outer continental shelf. Shipwrecks in federal waters are protected through Section 106 but only from permitted activities. Once identified, and the permitted activity is complete, no other protections exist for shipwrecks on the OCS. Existing legislation like ARPA (1979) explicitly excludes the Gulf of Mexico OCS from its jurisdiction.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

Our archaeologists and geoscience staff review and comment on proposed Notice to Leasees issued by the Bureau of Ocean Energy Management, Regulation, and Enforcement when asked.

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

Our company conducts archaeological surveys for clients pursuant to Notice to Leasees issued by the BOEMRE. Changes to their regulations impact our organization. In the case of the recent (April 2011) mitigation to archaeology issued by the BOEMRE, more lease areas in the Gulf of Mexico require an archaeological assessment, however the survey requirements themselves have not changed.

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

As an archaeological service provider we do not actively direct maritime heritage management strategies but work within the existing frameworks to provide our clients with the best service possible, while protecting the underwater cultural heritage. The field as a whole is benefitting from an increased awareness of the potential for submerged prehistoric sites. This is evidenced by the increase in state and federal survey/report requirements that specify an assessment for prehistoric resources as well as shipwrecks.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Our organization is challenged by finding qualified and experienced staff. Although numerous schools offer marine geology/geophysics and underwater archaeology, too few students graduate with experience analyzing and interpreting remote sensing data.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Positive

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response



**Tidewater Atlantic Research, Inc.**


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**5. Which of these categories would best describe your organization or unit?**

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

**6. Briefly describe your organization's mission and or scope.**

Tidewater Atlantic Research, Inc., was formed by Gordon Watts in 1979 to provide historical and submerged cultural resource location, identification, assessment and management services to private firms, government entities and other organization. TAR services range from historical research to all phases of submerged cultural resource investigation and development of planning programs that include GIS data management.

**7. Briefly describe your organization's history.**

For over 30 years TAR has carried out remote sensing surveys, site specific investigations ranging from Phase II identification and assessment to Phase III mitigation and data recovery on shipwrecks and other submerged cultural resources. TAR has developed GIS resource management programs for both local, state and federal government agencies. The majority of TAR projects have been related to the requirements of Section 106.

**8. Staffing levels:**

	N/A	1-3	4-6	7-10	10+
Permanent Staff		X			
Contractors			X		
Interns	X				
Volunteers		X			
<i>Additional Information / Clarifications:</i>					

**9. Institutional member levels, if applicable:**

N/A

**10. What kind of specialists are employed by your organization?**

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Historians
- Archivists
- Administration / Support Staff

**11. Do you foresee any adjustments to your staffing levels in the near future?**

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants		[X]			
State Funds / Grants		X			
Affiliated Foundation					
External Foundation					
Private Contracts					X
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts	X	
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research			X		
Inventory / GIS		X			
Field Surveys					X
Field Excavations		X			
Permitting / Compliance					
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

No, our organization does not currently have a curation facility.

Recovered artifacts are returned to state and federal agencies for curation

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole				X	
Website Presence					
Social Media Presence			X		
Print Publications / Newsletters					
Digital Publications / Newsletters		X			
Newspaper Articles / Editorials / Blogs			X		
Lectures / Presentations			X		
Community Events			X		
Educational / Training sessions (at your organization)					
Educational / Training sessions (on location)					
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public			X
Independent Researchers			X
University/Non-Profit Affiliated Researchers			X
Cultural Resource Management Firms			X
State Agencies			X
Federal Agencies			X
Foreign Governments			X

Other (please explain below)			
<i>Additional Information / Clarifications:</i>			

**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		
University/Non-Profit Organizations	X	
Cultural Resource Management Firms	X	
State Agencies	X	
Federal Agencies	X	
Foreign Governments	X	
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication							X	
Scholarly Print Publication						X		
Popular Digital Publication							X	
Scholarly Digital Publication							X	
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

Lack of adequately educated and experienced personnel moving into state and federal submerged cultural resource management positions.

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

Yes

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

Yes

North Carolina [submerged cultural resource management] regulations; Department of Interior Professional Qualifications; Abandoned Shipwreck Act; NOAA Monitor Marine Sanctuary

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

No

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

Surviving in the submerged cultural resource business in a disastrous economy. Section 106 is clearly the driving force in underwater archaeology in the United States today. Perhaps the most important technological achievements in underwater archaeological research have been in response to and funded through survey, investigation and mitigation associated with that legislation. Without that legislation very little would be accomplished through the traditional channels of research and education. The most unfortunate aspect of 106 sponsored activity is that little of the results of that research makes it into the broad channels of professional and public publication.

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

Surviving in the submerged cultural resource business in a disastrous economy. In terms of the field of maritime heritage preservation, the most serious challenge appears to be providing adequate education and experience for personnel applying for and filling positions in CRM programs.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

## URS Corporation

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### 5. Which of these categories would best describe your organization or unit?

Cultural Resource Management Firm OR Firm with Cultural Resource Management Division

### 6. Briefly describe your organization's mission and or scope.

To provide environmental and engineering solutions and services to our clients globally

### 7. Briefly describe your organization's history.

URS is a consortium of engineering and environmental companies that date back to the early 20th century.

### 8. Staffing levels:

	N/A	1-3	4-6	7-10	10+
Permanent Staff					X
Contractors					X
Interns		X			
Volunteers	X				
<i>Additional Information / Clarifications:</i>					

### 9. Institutional member levels, if applicable:

1000+

\*Modified to [N/A] due to private company status

### 10. What kind of specialists are employed by your organization? Please check all that apply.

- Underwater Archaeologists
- Terrestrial Archaeologists
- Cultural Resource Managers
- GIS / IT Specialists
- Conservators
- Curators
- Historians
- Archivists
- Architects
- Education / Outreach Specialists
- Administration / Support Staff
- Other

### 11. Do you foresee any adjustments to your staffing levels in the near future?

Expect staffing levels to remain stable.

**12. How do you see the pool of qualified candidates compared to the available positions in your organization and in the field as a whole?**

Many more qualified candidates than available positions.

**13. Please note your primary sources of funding.**

	0%	1-25%	26-50%	51-75%	76-100%
Federal Funds / Grants			X		
State Funds / Grants			X		
Affiliated Foundation					
External Foundation					
Private Contracts			X		
Public Donations					
Individual / Member Support					
Other					
<i>Additional Information / Clarifications:</i>					

**14. Please note the reliability or sustainability of your primary sources of funding.**

	Reliable / Sustainable	Unreliable / Unsustainable
Federal Funds / Grants	X	
State Funds / Grants	X	
Affiliated Foundation		
External Foundation		
Private Contracts		X
Public Donations		
Individual / Member Support		
Other		
<i>Additional Information / Clarifications:</i>		

**15. Please note the types of maritime heritage research or activities your organization participates in.**

	0%	1-25%	26-50%	51-75%	76-100%
Archival Research		X			
Inventory / GIS		X			
Field Surveys		X			
Field Excavations		X			
Permitting / Compliance				X	
Conservation		X			
<i>Additional Information / Clarifications:</i>					

**16. Does your organization have a conservation facility? Does it adequately meet your institutional needs?**

Yes, our organization has a conservation facility that meets our needs.

**17. Does your organization have a curation facility? Does it meet your institutional needs?**

Yes, our organization has a curation facility that meets our needs.

**18. Please note the importance of public outreach to your organization (Row 1) and the effectiveness of outreach initiatives as experienced by your organizations (remaining rows).**

	Very Important / Very Effective	Important / Effective	Of Occasional Value Or Effectiveness	Not Important / Ineffective	Not Engaged In Outreach Or This Initiative
Public outreach as a whole			X		
Website Presence				X	
Social Media Presence					X
Print Publications / Newsletters				X	
Digital Publications / Newsletters				X	
Newspaper Articles / Editorials / Blogs				X	
Lectures / Presentations			X		
Community Events				X	
Educational / Training sessions (at your organization)				X	
Educational / Training sessions (on location)				X	
Other #1 (please clarify below)					
Other #2 (please clarify below)					
<i>Additional Information / Clarifications:</i>					

**19. Does your organization maintain a submerged cultural resources database or inventory?**

Yes

**20. If your organization maintains a submerged cultural resources database or inventory, who can request access to the recorded information?**

	Yes	No	Case By Case Basis
General Public		X	
Independent Researchers		X	
University/Non-Profit Affiliated Researchers		X	
Cultural Resource Management Firms		X	
State Agencies		X	
Federal Agencies		X	
Foreign Governments		X	
Other (please explain below)			



<i>Additional Information / Clarifications:</i>
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**21. If your organization maintains a submerged cultural resources database or inventory, have you partnered with other individuals or institutions in its development?**

	Yes	No
Independent Researchers		X
University/Non-Profit Organizations		X
Cultural Resource Management Firms		X
State Agencies		X
Federal Agencies		X
Foreign Governments		X
Other (please explain below)		
<i>Additional Information / Clarifications:</i>		

**22. Does your organization regularly put out popular or scholarly publications?**

	Weekly	Bi-Weekly	Monthly	Quarterly	Semi-Annually	Annually	Rarely	Never
Popular Print Publication								X
Scholarly Print Publication								X
Popular Digital Publication								X
Scholarly Digital Publication								X
<i>Name of Publication(s) / Additional Information:</i>								

**23. What are the main submerged cultural resource management policy concerns, if any, facing your organization? Has your organization identified any legislative gaps that impact submerged cultural resources?**

With the decrease in Federal funding to the USACE, [there is] concern that more projects are being permitted under emergency declarations and not require to comport with Section 106

**24. Does your organization participate in advocacy efforts to influence public policy pertaining to submerged cultural resources?**

No

**25. Does your organization have any legislative initiatives underway or planned for the near future?**

No

**26. Has your organization been involved in drafting or reviewing cultural resource management laws or regulations in the past?**

No

**27. Has your organization been affected by any recent changes in legislation or regulations that pertain to maritime heritage preservation? If yes, how?**

See question 23

**28. Please discuss your organization's most important recent accomplishments as well as planned future initiatives that pertain to maritime heritage or submerged cultural resources. What do you see as the most important recent achievements of the field as a whole?**

The documentation of potentially the earliest sailing canal boat on the Hudson River for GE

**29. Please identify the greatest challenges facing your organization in particular (e.g. funding, staffing, membership levels, etc.), as well as the field of maritime heritage preservation as a whole (e.g. public awareness levels, resource management, etc.).**

The greatest challenge to our organization is the overall lack of funding for large infrastructure projects in the US that will require archeological review (Section 106 and NEPA not required). Staffing is also becoming more of an issue in that there are fewer jobs every year for the graduates entering the field.

**30. Taking accomplishments and challenges into consideration, what direction do you see the field of maritime heritage preservation heading in?**

Unclear / No Change

**31. Please provide any additional comments or clarifications not addressed elsewhere in this survey.**

No Response

**VITA**

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