The Abandoned Shipwreck Act of 1987 and the Reaction of State Historic Preservation Offices

Kelly A. Victor and Gary M. Victor

Department of Geography and Geology
Eastern Michigan University
Ypsilanti, MI 48197

Department of Marketing and Law
Eastern Michigan University
Ypsilanti, MI 48197

ABSTRACT

The Abandoned Shipwreck Act of 1987 is perhaps the most important piece of recent federal legislation enacted affecting underwater archaeology and the preservation of underwater historic sites. With this short statute, the federal government vested title to virtually all historic shipwrecks in navigable water to the states. The act also changed existing legal principles in order to allow the states to enact their own laws to protect and preserve underwater historic resources.

This article begins with a discussion of the Abandoned Shipreck Act of 1987—what it is, what it does and how it has changed the law related to abandoned shipwrecks. The article continues with a survey of state historic preservation agencies. The data consisted of questionnaires sent to 57 states and U.S. territories seeking reaction to the act. Given an opportunity to comment on this new legislation, the vast majority of the recipients responded.

KEY WORDS: abandoned shipwrecks, cultural resources, legislation, underwater archaeology, navigable waters, historic preservation.

INTRODUCTION

Historic shipwrecks are increasingly being viewed as important, nonrenewable cultural resources needing greater protection. Almost every state, including landlocked ones with navigable rivers and lakes, contains abandoned shipwrecks on its submerged lands (U.S. Department of the Interior, National Park Service [USDI, NPS] 1989). It has been estimated that there are 50,000 shipwrecks located in the navigable waters of the United States with between 5 and 10 percent of them having historical significance (U.S., United States Code Congressional and Administrative News [US Code Cong. and Adm. News] 1988).

In the past, finding shipwrecks often depended on inaccurate historical records, shallow depths and a great deal of good luck. Today, technological advances have made finding and assessing shipwrecks much easier, generating
both a greater interest in them and a higher potential for exploitation. A myriad of diverse and often antagonistic groups have a stake in abandoned shipwrecks. Such groups include: archaeologists, historians, preservationists, commercial salvors, charter boats operators, treasure hunters, diving operators, private collectors, sport SCUBA divers and underwater photographers.

Prior to the enactment of the Abandoned Shipwreck Act of 1987 (U.S. Code, Title 43, §2103, et seq., hereinafter referenced as ASA) there had been considerable confusion concerning the ownership and authority to manage abandoned shipwrecks (US Code Cong. and Adm. News 1988). The act was designed to resolve this confusion by vesting ownership to most abandoned shipwrecks in the states and charging the states with responsibility for the management of those resources. Most of this managerial burden has fallen on state historic preservation offices.

This paper is divided in two parts. The first part is a brief analysis of the Abandoned Shipwreck Act of 1987. This section will discuss the legal environment prior to the passage of the act, the legal changes generated by it, the scope of the act, the responsibilities placed on the states and the question of funding. The second part of the paper consists of a discussion and analysis of the reaction and comments of state historic preservation offices to the act.

THE ABANDONED SHIPWRECK ACT OF 1987

The Setting—Legal Confusion Abounds

Historically, legal questions regarding shipwrecks in navigable waters were resolved under Admiralty law. Admiralty law developed in ancient times in the area of the Mediterranean Sea and has been modified through the English and subsequently the American legal system. Admiralty law was based on commercial necessity and was designed to encourage the salvage of ships and their cargo. To promote such action, Admiralty law contains the Law of Finds which allows one who finds an abandoned shipwreck to obtain title to it, and the Law of Salvage which awards those who perform acts of salvage a portion of the goods retrieved.

Under the Supremacy Clause of the United States Constitution (U.S. Constitution, art VI, Cl 2), admiralty and maritime matters were considered the exclusive domain of federal law and the federal courts. Generally, only Federal Admiralty Courts could hear (i.e. have jurisdiction over) admiralty cases involving the salvage of shipwrecks. Moreover, federal cases have long held that state laws which are in direct conflict with established federal admiralty or maritime principles can not be enforced (Southern Pacific 1916).

As time passed, states began to recognize the abandoned shipwrecks on their submerged lands as historical and cultural resources. States started passing legislation designed to protect abandoned shipwrecks under their waters. Since most of these laws contained provisions which differed to some extent from established federal law, the validity of such state laws was immediately brought into question.

Adding to the legal confusion was the enactment of the Submerged Lands Act of 1953 (U.S. Code, Title 43, §1301, et seq.). This statute gave the states title to the natural resources located in or under their submerged lands, however, the act did not clarify the question of title to cultural resources such as abandoned shipwrecks (USDI, NPS 1988). By 1987, over half of the states had passed legislation of questionable validity affecting the salvage of abandoned shipwrecks.

An examination of two cases illustrates the state of legal disarray setting the stage for the enactment of the Abandoned Shipwreck Act of 1987. Cobb Coin Co., v. Unidentified, Wrecked and Abandoned Sailing Vessel (Cobb Coin Co., Inc. 1981), concerned the remains of what was believed to be a Spanish treasure galleon—the Almiranta of the New Spain Group of the 1715 Plate Fleet. The wreckge was found some 100 feet off the Florida coast approximately 3.5 miles north of Vero Beach. Cobb Coin, a
treasure salvor, had filed suit to establish salvage rights to the wreck under federal admiralty law. The State of Florida entered the case claiming ownership and the right to manage the salvage of the remains under the Florida Archives and History Act. The Court held that the Florida statute was preempted by federal maritime law and that the Submerged Lands Act did not authorize the states to administer the recovery of abandoned shipwrecks within their territorial waters.

At issue in Subaqueous Exploration v. Unidentified, Wrecked and Abandoned Vessel (Subaqueous Exploration 1983), was what was believed to be the remains of three treasure galleons sunk off the shore of Ocean City, Maryland in the late 1700s. The Court in this case refused to follow the earlier decision in Cobb Coin and reached directly contradictory results. The Court concluded that Maryland’s statutes designed to protect historical and archaeological objects found on its lands were enforceable because they only incidentally affected admiralty and maritime matters. The Court also held that the federal Submerged Lands Act gave states the “power to regulate objects found in, on, or buried beneath [their] submerged lands, including abandoned shipwrecks and their cargo” (Subaqueous Exploration 1983, 613).

The Abandoned Shipwreck Act of 1987 was designed to eliminate the legal disorder created by such contradictory court decisions. The act changed the law in order to allow states to develop their own statutory schemes to protect the historical and cultural resources represented by abandoned shipwrecks.

The Legal Effect of the Act—Calming the Waters

The Abandoned Shipwreck Act of 1987 settled the legal confusion in two easy steps. First, the act clarified the question of title to most abandoned shipwrecks; second, it changed the law applicable to those shipwrecks.

To settle title, the United States asserts title to most abandoned shipwrecks on state submerged lands [ASA §2105(a)], and then transfers title to the “State in or on whose submerged lands the shipwreck is located” [ASA §2105(c)]. To resolve the conflict between federal maritime law and state laws, the act provides that the Law of Salvage and the Law of Finds shall not apply to abandoned shipwrecks to which title has been transferred to the states [ASA §2106(a)].

Perhaps the most praiseworthy aspect of this act is that with these short provisions it has all but eliminated the main sources of legal confusion which led to its passage—a major accomplishment for any piece of legislation. It is now clear that the states have title to most abandoned shipwrecks on their submerged lands and that the states may develop their own individual strategies for protecting those resources. Which abandoned shipwrecks are subject to transfer to the states is considered below.

Scope—Protection First, Ask Questions Later

A review of the definitional sections of the Abandoned Shipwreck Act of 1987 shows an intent by Congress to err on the side of inclusion. It appears that almost all abandoned shipwrecks located on state submerged lands are subject to the provisions of the act.

The term “abandoned” means shipwrecks that the owner has given up title to with no intent to claim any interest in the future (USDI, NPS 1989). The act applies to the vessel itself as well as its cargo and other contents [ASA §2102(d)]. To be covered by the act, abandoned shipwrecks must be located on or in the “submerged lands” of a state [ASA §2102(a)]. This means the bottomlands of navigable rivers, lakes and tidal offshore marine waters out to three nautical miles (USDI, NPS 1989).

The abandoned shipwrecks to which the act applies are those: (1) embedded in the submerged lands of a state; (2) embedded in the coralline formations protected by a state on submerged lands of a state; or (3) on submerged lands of a state and included in or determined eligible for inclusion in the National Register [ASA §2105(a)]. As the term “embedded” only means that tools of
excavation be required to move the bottom sediments to gain access to any part of the shipwreck or its cargo [ASA §2102(a)], most abandoned shipwrecks are covered by the act. With the exception of abandoned shipwrecks located on the public lands of the United States or on Indian lands, the only abandoned shipwrecks excluded from the provisions of the act are those which both lack historical significance and do not require excavation for access [ASA §2105(d)].

The all inclusive nature of the act has led to condemnation by sport divers (Gleason 1988) including a solicitation for donations to support a constitutional challenge to the act brought by the American Sport Divers Association (Klein 1989). These complaints by sport divers would require a finding of historical importance before an abandoned shipwreck could be transferred to state control. The better position, however, is the broad approach of the act which assures the continued existence of most abandoned shipwrecks, some of which will later be found to be cultural resources.

The grant of title to the states, like most “gifts” from the federal government, did not come without strings. These strings came in the form of declarations of Congressional policy and encouragements for state action.

State Responsibilities Under the Act—The Burden

In passing the Abandoned Shipwreck Act of 1987, Congress sought to 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 [ASA §2103(a)(1)]. It also sought to assure that the states holding title allow reasonable access to shipwrecks by the public [ASA §2103(a)(2)].

Congress placed upon the states the burden of accommodating the diverse groups concerned with shipwrecks as well as assuring access to shipwreck sites. This was done by putting responsibility on the states to develop appropriate and consistent policies which will:

- (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 [ASA §2103(a)(2)(A)(B) and (C)].

Congress also encouraged the states to create underwater parks to provide additional protection for the resources covered by the act [ASA §2103(b)].

In short, Congress charged the states with a managerial burden requiring new or additional bureaucracies. Such responsibilities will unquestionably necessitate additional financial commitments by the states. If the act provided for the funding of such additional expenditures, states could readily meet the increased burden. However, providing for the funding of new state programs is the primary failing of the act.

Funding—Drawing from an Empty Bucket

Adequate funding is the key for the successful operation of programs for the management and protection of abandoned shipwrecks (USDI, NPS 1989). The only reference to funding in the act is the availability of grants from the Historic Preservation Fund (U.S. Code, Title 16, §470h) “for the study, interpretation, protection, and preservation of historic shipwrecks and properties” [ASA §2103(b)]. As historic preservation grants are already limited and highly sought after, the act merely provides for increased competition for such funds.

The Guidelines to the Abandoned Shipwreck Act of 1987 mentioned another possible source of funding. The National Oceanic and Atmospheric Administration in the United States Department of Commerce has identified Coastal Zone Management grants as
available for funding the development and implementation of shipwreck management programs (USDI, NPS 1989). Here, again, scarce federal funds are being redistributed.

Given the continuing escalation of the federal deficit, it is reasonable to expect that states, by and large, will have to fund their shipwreck management programs by themselves. This major weakness in the act may have us all waiting quite a long time before abandoned shipwrecks can be given the protection they need and deserve.

THE REACTION OF HISTORIC PRESERVATION OFFICES

Objectives

An analysis of the Abandoned Shipwreck Act of 1987 shows that the act will place new responsibilities on the states. It is anticipated that much of the managerial burden will fall on the shoulders of state historic preservation offices. The objective of this section was to gather and determine the reaction of those offices to the passage of the act.

Methodology

To achieve research objectives past legislation pertaining to shipwrecks was obtained. Articles from various SCUBA magazines, newspapers, and organizations were collected. A workshop dealing with Great Lakes archaeology and submerged sites was also attended. Research began in January of 1989.

Utilizing gathered materials, a survey was designed which focused on state reaction to the passage of the act, future plans to meet state responsibilities under the act, and funding considerations. Survey questions requested a variety of responses. The majority of questions were open-ended, in the hope of retrieving well-rounded responses. Likert scale questions were also included. The survey was completed on February 12, 1989. A synopsis of the act (Fig. 1) and the survey (Fig. 2) were mailed to all 57 states and U.S. territories in February, 1989. Follow-up letters were mailed a month later. The survey response period was between February 12–April 1, 1989.

As each returned survey arrived, it was read and indexed alphabetically. During the first week of April, 1989, all responses to the Likert scale questions were tabulated and initial computer-generated maps showing each state’s response to the Likert scale questions were prepared and checked. A survey summary focusing on the responses to the submitted open-ended questions was completed for all states and territories (Appendix A), followed by final mapping of the data.

Results And Discussion

Response to the survey was excellent as 38 (or 67%) completed surveys were received during the response period (Fig. 3). Three respondents reported that surveys would be arriving at some later date, and four others did respond after the survey period ended. The results of the Likert scale questions are presented in Table 1.

The most consistent finding was a concern among the states as to whether there would be adequate funding through National Historic Preservation Fund grants to carry out their responsibilities assigned to them under the act. A majority, 61 percent, felt there would not be; 29 percent were not sure and the last 10 percent did not answer (Table 1 Question 7). No responding agency felt there would be enough funding. This finding appears to be contrary to the estimates of the Congressional Budget Office (Fig. 1). Fifty percent of the responding states reported that they presently have laws dealing with shipwrecks and several reported that shipwreck legislation was in the process of being introduced.

Though a majority of responses (45%) viewed the passage of the act as being "very positive" for their state, two agencies reported they saw the passage as being "negative" for their state. Those agencies expressed concern that the act was not preservation-oriented enough, and that it only covered tidal waters. The most prevalent comment was that the act resolved most conflicts between state and Admiralty laws.

Most respondents reported that they
With the passage of the Abandoned Shipwreck Act of 1987, the U.S. Congress found that the “States have the responsibility for the management of a broad range of living and nonliving resources in State waters and submerged lands; and included in the range of the resources are certain 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.) The act transfers title of abandoned shipwrecks from the United States to the state in or on whose submerged lands the shipwreck(s) is located.

In managing those shipwrecks under protection, the act expressly states that:

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 1 of the National Historic Preservation Act, for the study, interpretation, protection, and preservation of historic shipwrecks and properties.

In a letter to Walter B. Jones, Chairman of the Committee on Merchant Marine and Fisheries in the U.S. House of Representatives; James L. Blum, Acting Director of the Congressional Budget Office stated that:

We estimate that this bill would have no significant impact on the budget of the federal government, or of state and local governments. . . . Neither the NPS nor the affected states are expected to incur significant additional costs as a result of this bill. (Taken from Legislative History of the Abandoned Shipwreck Act of 1987.)

Figure 1. Background: The Abandoned Shipwreck Act of 1987.

had not reviewed the guidelines written by the Secretary of the Interior. This was not surprising because the guidelines were not issued until after the response period had ended. A majority (50%) of responding agencies reported that they were “not sure” about establishing underwater parks or areas. Only two states, Michigan and Florida, have already established underwater parks (Fig. 8). Twenty-six percent of responding agencies reported they had pending petitions for salvage permits of shipwrecks; all are coastal states, with the exception of Michigan (a Great Lakes state) (Fig. 9).

SUMMARY AND CONCLUSION

Historic shipwrecks are now considered to be valuable cultural artifacts. With the passage of The Abandoned Shipwreck Act of 1987, the federal government asserted title to abandoned shipwrecks and gave title to these shipwrecks to the states, charging them to develop policies for their management consistent with all interested parties.

With a wide variety of new responsibilities now facing many states, a survey was created to gauge reactions of state historic preservation agencies—the agencies charged with carrying out the act’s responsibilities. Fifty-seven surveys were mailed out, 38 states responded during the established response period. A response rate of 67 percent is very high for direct-mail surveys. This is an excellent indication that this act is seen as an important piece of legislation. Coastal states and those with navigable waters, now have a tremendous responsibility to protect, preserve, and interpret our rich maritime heritage. Reactions to the act were mixed. Most felt that the passage was “very positive” for their state, while a majority felt there was inadequate funding to carry out their newly assigned responsibilities.

Survey comments have shown there are still many questions to be addressed. Specifically, funding considerations (Fig. 10) and concerns about the true strength of shipwreck protection seem to have “muddied” the water. Where will adequate funding come from? Will this act really be strong enough to protect shipwrecks from destruction? Unfortunately, there are no clear an-
SURVEY: THE ABANDONED SHIPWRECK ACT OF 1987

Name ____________________________________________
Agency Name ____________________________________________
Address ____________________________________________

Is your state affected by this Act? _______ Yes _______ No

Does your state presently have any laws dealing with shipwrecks? _______ Yes _______ No

If yes, please briefly describe and include a citation. ____________________________________________

How does your agency view the passage of this Act for your state?
____ Very positive ______ Positive ______ Not sure ______ Negative ______ Very negative

Briefly, what opinions does your agency hold concerning the passage of this Act? ____________________________________________

Has your agency reviewed the guidelines written by the Secretary of the Interior concerning this Act? _______ Yes _______ No

Estimate yearly revenues your state generates from:
Sport scuba diving ____________________________________________
Commercial Scuba diving ____________________________________________
Tourism ____________________________________________
Historic sites ____________________________________________
Biological sanctuaries ____________________________________________

Does your state plan to establish "underwater parks or areas" in accordance with the Act? _______ Yes _______ No _______ Not sure

If yes, from what sources do you expect funding from? ____________________________________________

How might your state guarantee recreational exploration of shipwreck sites? ____________________________________________

Figure 2. Survey: The Abandoned Shipwreck Act of 1987.

swers. Time and legal proceedings will help to clarify these questions. Whether this act sinks or swims depends on the cooperation of preservationists, archaeologists, historians, sport SCUBA divers, professional salvors and law makers.
How might your state allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and sites?

____________________________________________________

____________________________________________________

____________________________________________________

____________________________________________________

Does your agency have pending petitions for salvage permits of shipwrecks? Yes No

If yes, how many? Can you please describe the circumstances?

____________________________________________________

____________________________________________________

____________________________________________________

____________________________________________________

Does your agency feel there is adequate funding from grants obtained from the National Historic Preservation Fund to carry out the responsibilities assigned to the states under the Act? Yes No Not sure

Please make any additional comments concerning this Act.

____________________________________________________

____________________________________________________

____________________________________________________

____________________________________________________

Thank you!

PLEASE RETURN TO:

Kelly A. Victor
4928 Cole Blvd.
Ypsilanti, MI 48197

Figure 2 (continued). Survey: The Abandoned Shipwreck Act of 1987.

APPENDIX A
STATE-BY-STATE SURVEY RESPONSE SUMMARY

Alabama

“Our office has always considered the shipwrecks in Alabama to be our responsibility. This act supports our position and allows us to manage underwater resources with legal responsibility.” The agency has one pending petition for a salvage permit. The permit is for the recovery of a 1850s steamboat in the Alabama River. Not feeling that there is adequate funding to carry out the responsibilities of the act the agency commented: “Appropriation must be line itemed for states to develop rules, reg-
Figure 3. States Responding to Survey.
### TABLE 1
Results of the Likert Scale Questions

1. **Is your state affected by this Act?** (Fig. 4)

<table>
<thead>
<tr>
<th>Answer</th>
<th>Count (states)</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>29</td>
<td>76%</td>
</tr>
<tr>
<td>No</td>
<td>6</td>
<td>16%</td>
</tr>
<tr>
<td>No Answer</td>
<td>3</td>
<td>8%</td>
</tr>
</tbody>
</table>

2. **Does your state presently have any laws dealing with shipwrecks?** (Fig. 5)

<table>
<thead>
<tr>
<th>Answer</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>19</td>
<td>50%</td>
</tr>
<tr>
<td>No</td>
<td>19</td>
<td>50%</td>
</tr>
<tr>
<td>No Answer</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

3. **How does your agency view the passage of the Act for your state?** (Fig. 6)

<table>
<thead>
<tr>
<th>Opinion</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very positive</td>
<td>17</td>
<td>45%</td>
</tr>
<tr>
<td>Positive</td>
<td>8</td>
<td>21%</td>
</tr>
<tr>
<td>Not sure</td>
<td>11</td>
<td>29%</td>
</tr>
<tr>
<td>Negative</td>
<td>2</td>
<td>5%</td>
</tr>
<tr>
<td>Very negative</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>No answer</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

4. **Has your agency reviewed the guidelines written by the Secretary of the Interior concerning this Act?** (Fig. 7)

<table>
<thead>
<tr>
<th>Answer</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>5</td>
<td>13%</td>
</tr>
<tr>
<td>No</td>
<td>22</td>
<td>58%</td>
</tr>
<tr>
<td>No answer</td>
<td>2</td>
<td>5%</td>
</tr>
</tbody>
</table>

5. **Does your state plan to establish "underwater parks or areas" in accordance with the Act?** (Fig. 8)

<table>
<thead>
<tr>
<th>Answer</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Already Have</td>
<td>2</td>
<td>5%</td>
</tr>
<tr>
<td>Yes</td>
<td>5</td>
<td>13%</td>
</tr>
<tr>
<td>No</td>
<td>9</td>
<td>24%</td>
</tr>
<tr>
<td>Not sure</td>
<td>19</td>
<td>50%</td>
</tr>
<tr>
<td>No answer</td>
<td>3</td>
<td>8%</td>
</tr>
</tbody>
</table>

6. **Does your agency have pending petitions for salvage permits of shipwrecks?** (Fig. 9)

<table>
<thead>
<tr>
<th>Answer</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>10</td>
<td>26%</td>
</tr>
<tr>
<td>No</td>
<td>25</td>
<td>66%</td>
</tr>
<tr>
<td>No answer</td>
<td>3</td>
<td>8%</td>
</tr>
</tbody>
</table>

7. **Does your agency feel there is adequate funding from grants obtained from the National Historic Preservation Fund to carry out the responsibilities assigned the states under the Act?** (Fig. 10)

<table>
<thead>
<tr>
<th>Answer</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>No</td>
<td>23</td>
<td>61%</td>
</tr>
<tr>
<td>Not sure</td>
<td>11</td>
<td>29%</td>
</tr>
<tr>
<td>No answer</td>
<td>4</td>
<td>10%</td>
</tr>
</tbody>
</table>
Figure 5. States Responding to Survey—Does Your State Presently Have Shipwreck Laws?
Figure 6. States Responding to Survey—How Does Your Agency View the Passage of this Act for Your State?
Figure 7. States Responding to Survey—Has Your Agency Reviewed the Guidelines?
Figure 8. States Responding to Survey—Does Your State Plan to Establish Underwater Parks?
Figure 9. States Responding to Survey—Does Your State Currently Have Petitions for Salvage Permits?
Figure 10. States Responding to Survey—Does Your Agency Feel There is Adequate Funding Available?
ulations, and preservation management plans!”

**Alaska**

Alaska’s Office of History and Archaeology views the passage of the act as “positive,” adding that it provides shipwreck title to the state. The agency plans to work cooperatively with sport diving groups to guarantee recreational exploration of shipwreck sites. They currently have one pending petition to salvage gold from a shipwreck.

**Arkansas**

The agency added no comments, only answered Likert scale questions.

**Colorado**

“The State of Colorado is landlocked, and does not claim river bottoms as State property.”

**Connecticut**

“Connecticut anticipates drafting state underwater/shipwreck preservation legislation during 1989 for introduction to the State General Assembly in late 1989/early 1990.” To guarantee recreational exploration of shipwreck sites the agency expects “...to examine Vermont and Michigan approaches for application in Connecticut.” Regarding funding, the agency added: “Underwater/shipwreck inventories are expensive. NPS should consider 100 percent grants (e.g., non-matching grants) to states for wreck identification surveys.”

**Delaware**

Responding that their agency views the passage of the act as “very positive,” they further commented: “It should enable us to have better control over the investigation and salvage of shipwrecks by private parties.” The agency plans to employ educational programs to ensure that sport divers will have both respect for and guaranteed recreational exploration of shipwrecks. In addressing the question on how their state might allow for appropriate public and private sector recovery of shipwrecks, they responded: “Through permits and agreements on the use of archaeological methods in the field and in the lab, and for professional archaeological analysis probably with a joint permit from the Department of Natural Resources and Environmental Control.”

**Florida**

Responding that their agency views the passage of this act as “very positive,” they stated: “We have strongly supported such legislation since its initial draft. Essential in Florida to resolve conflicts in jurisdiction between state and federal governments in areas of sovereignty submerged lands covered by admiralty arrests.” Having established an underwater park in 1987, a second will open in April 1989. Most funding is from existing program budgets, supplemented by donations of material and assistance. This respondent explains that “Recreational access to shipwreck sites has never been restricted in Florida waters. We are developing additional underwater archaeological preserves and continue to cooperate with sport divers.” Not sure about adequate funding they commented that “Adequacy of funding depends on whether suitable applications are received from those who would be able to carry out survey, assessments and interpretation and whether such applications would result in grants by approval of the Advisory Council that is involved in the state program.”

**Guam**

Responding that the passage of the Abandoned Shipwreck Act of 1987 was “very positive,” the Department of Parks and Recreation added that the act: “1. Firmly secures the jurisdiction over historic wrecks for the territory; 2. Allows implementation of local policies in local laws.” They also stated that recreational exploration has been the norm on all accessible historic wrecks. Looting has been a problem in the past and they are seeking a way to discourage it. Believing that funding is inadequate to carry out the responsibilities assigned to the states and territories under the act, they state fur-
ther that, “Recent appropriations have been too low overall, Western Pacific in general gets shorted on distribution. Vi-able program difficult to establish at the level of funding/support in substantially atypical circumstances.”

Hawaii

Stating that they have no current opinions, the Hawaiian State Historic Preservation Office notes that, “Outside of wrecks in Pearl Harbor, we know of no shipwrecks... Generally, we anticipate shipwrecks to be present (e.g., whaling period ships). These are currently unlocated, archaeological survey needs to find them, so management plans can be made—but this is a very low priority in our concerns. Also, divers come here to look at marine life, not wrecks. At this time we prefer not to draw attention to wrecks, and in some ways this bill counteracts this preference and might threaten unlocated wrecks in Hawaii.”

Idaho

Commenting that they view the passage of the act as “positive,” they stated “It is a law that has been needed for many years.”

Illinois

Only answered Likert scale questions.

Indiana

Stating that Indiana is affected by this act, the Division of Historic Preservation and Archaeology reported that they presently have laws dealing with shipwrecks. They commented that they view that act as being “very positive,” “… Will assist Indiana and my agency in protecting historic shipwrecks within our territorial waters.” They also reported that their state has a large SCUBA industry who dive and purchase equipment in-state. They plan to guarantee recreational exploration of shipwreck sites by state regulations to be issued in the summer of 1989. They also added that they have not restricted access in the past, nor do they intend to after regulatory review. Not sure about obtaining adequate funding they stated that, “We presently use NPS monies to locate, identify and evaluate shipwreck sites. We would look to increase funding from Interior [Department of the Interior] to effect site protection.”

Iowa

“We were disappointed after learning that the act only concerned lands ‘covered by tidal waters’ which therefore excluded the management and preservation needs of abandoned shipwrecks in our great inland water system.” The Bureau of Historic Preservation viewed the passage of the act as negative. Remark-ing that they are not sure how their state will allow appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and sites, they described two events that have caused great concern. “We are not sure, but two events are magnifying our concern for many abandoned steamboat wrecks along the Missouri and Mississippi Rivers. One is the recent private excavation and pillaging of the Arabia (sunk in 1856) and the discovery a few months earlier of a steamboat from the 1820s era in the Missouri/Kansas area. Second is the move by at least two private salvage operations to negotiate leases with landowners having Missouri River bottomlands where steamboats are thought to lie. State legislation must be passed to protect the public’s interest in preventing wanton destruction of important aspects of early Iowa history. Such a law should at least ensure that steamboat excavations would be documented to proper archaeological standards and prevent its cargo of artifacts with historical but little market value from being hauled off to the local dump.”

Kansas

Stating that this act will not affect their state, they add that they believe that it will assist maritime states.
Kentucky

The Kentucky Heritage Council writes that they are "... supportive of intent even if it has little impact on our state."

Maine

The Maine Historic Preservation Commission comments that, "It was important to remove jurisdiction over historic shipwrecks from the Admiralty Courts... Currently we have nearly 500 entries in our shipwreck inventory, but most of these are based on documentary accounts, rather than archaeological data. Gathering the necessary archaeological data to identify and evaluate the resource via underwater survey (remote sensing and follow-up diving) will be extremely expensive. There is no money for this at Maine's current level of HPF [Historic Preservation Funding]."

Maryland

Reporting they view the passage of the act as being "very positive" for their state, they add, "... it bolsters our law; it takes shipwrecks out of the Admiralty Court." Citing that Maryland plans to establish underwater parks/areas, they expect funding from private, state, local, federal levels. State law guarantees recreational exploration of shipwreck sites. "Beyond just the words is our goal to involve volunteers in all phases of archaeological investigations. So far, we've had a great response." The Maryland Historical Trust/Maritime Archaeology Program does not believe there is adequate funding. "No single agency can carry the financial burden of the maritime heritage of the entire U.S. The funding foundation and in-kind support must come from a wide base so that the act that was passed can become a reality."

Massachusetts

"Very positive" is how the Massachusetts Board of Underwater Archaeological Resources views the passage of the act. Reporting that there are currently 10 salvage permits issued by the Board, they explain: "The Board issues two types of permits: Reconnaissance and excavation. ... Essentially, destructive site examination techniques and artifact recovery activities require adherence to accepted archeological and conservation standards which include professional staff and supervision, a research design, curation and conservation facilities, and demonstration of financial ability to carry project to completion." One concern about the act is that it "does not set minimum and consistent standards which would be in effect across political (state) boundaries; this will be a problem."

Michigan

Michigan's Bureau of History views the passage of this act as being "positive." In their opinion they believe that the act is "not as strong as Michigan law." They have already established underwater parks/areas and are in the process of establishing salvage guidelines. They have one renewal of a previous salvage permit.

Mississippi

Stating that they view the act as being "positive" for their state, the Department of Archives and History hopes that guaranteeing recreational exploration of shipwreck sites will cause no expense to the state: "Divers should recreate somewhere else."

Missouri

Responding that their state is affected by the act, they report that Missouri does not have any laws dealing with shipwrecks. They add that "legislation for protection has been introduced in current session." They view the passage of the act for their state as "very positive," "We feel it has potential for providing protection to shipwrecks located within our state." In responding to the question of how Missouri will allow for appropriate public and private sector recovery of shipwrecks, they identify the development of state statutes. These statutes will "... allow controlled and supervised recovery of such resources with provisions that artifactual materials remain
within state, preferably interpreted within a museum context."

**Nevada**

"Not sure" about how they view the passage of the act regarding their state, they stated, "Nevada has only one or two scuttled ships in Lake Tahoe. This is a desert state and impacts will be minimal."

**New Hampshire**

"We are in favor of the act and at the time it became law, New Hampshire had on the books all the statutes necessary for compliance."

**New Mexico**

". . . New Mexico has no coastline, no natural lakes bigger than a bread box, and no navigable waters."

**New York**

Responding that they view the passage of the act as being "very positive" for New York, the State Office of Parks, Recreation and Historic Preservation stated that they have requests to salvage ships in New York Harbor and Lake Champlain.

**Commonwealth of the Northern Mariana Islands**

Viewing the passage of the act as being "very positive," they add that it was long overdue. They intend to guarantee recreational exploration of shipwreck sites "by creating an underwater trail and providing this information to SCUBA diving tour shops and the submarine tour shop. Reporting how they plan to allow for public and private sector recovery of shipwrecks, they outlined: "If the private sector was to salvage a 'shipwreck', they should first get approval from the Governor's Office and the Attorney General's Office. Once approved, they would consult with the Division of Historic Preservation. A contract would be drafted which would be approved by the H.P.O., the Attorney General's Office and the Governor's Office. If approved, the applicant can salvage the shipwreck under close supervision by the H.P.O. and a special representative assigned to monitor the project." They plan to establish underwater parks in accordance with the act.

**Oklahoma**

"We wrote support letters but have no strong interests in this type of resource."

**Oregon**

"Not sure" on how their agency views the passage of the act, they report that many of the survey questions are still under debate. They commented, "Oregon waters are very cold with steep drops, fast currents, takes massive wet water gear to dive . . . is a very minor 'sport' in Oregon—even surfing takes heavy wet suits. White shark attacks occur every year or so on those who do surf. The future will be greater as better gear develops. Most diving is in bays, estuaries and inland water ways to date."

They do respond that they have one salvage petition, "to look for the Beeswax ship—wax dating from the 1550's–1620's has been found in one area. . . . A California 'salvage' firm wants it and all artifacts. Ship yet to be "found." Unknown as to which ship or even age of ship.

**Rhode Island**

Rhode Island's Historical Preservation Commission responded that their agency viewed the passage of the act as being very positive, "affirms state ownership of wrecks in state waters. We strongly agree with this." They plan to establish a classification system that "clearly sets limits on classes of wrecks that can be explored and those that cannot," in order to guarantee recreational exploration of shipwreck sites.

**South Carolina**

"Final version of act is not as preservation oriented as early versions supported by the S.C. SHPO. Success of act lies with each state. Section 106 of the National Historic Preservation Act of 1966, as amended and regulations of 36 CFR part 800 are not incorporated into act; therefore, in S.C. the SHPO is not involved in providing official opinions and recommendations. SHPO involvement
only occurs if an undertaking relative to 106 or 110 will impact the specific resources.” Commenting additionally about the act: “The SHPO supported passage of the act. Our interpretation of the act, prior to its passage and prior to the public meeting sponsored by the NPS after its passage, was significantly different from that of NPS. While there are positive aspects of the act, many sections seem not to be oriented toward the (1) preservation and protection of abandoned shipwrecks; (2) stewardship of these resources for all citizens (present and future generations).”

South Dakota

Responding that they viewed the passage of the act as “positive,” the Historical Preservation Center explained, “Because of the value of the resource nationally, we are pleased to see an element of protection provided. We have a few places which may qualify for protection under the act.”

Tennessee

“Tennessee is blessed with many miles of inland water ways, in which steamboats have been operating since 1819. The potential for many steamboat wrecks is great, especially civil war vessels. This law should strengthen the state’s authority in preserving them. . . . Most of these [shipwreck] sites are in zero-visibility situations, navigable ship channels—it is not felt that recreational—sport divers will be interested in most of these sites.”

Texas

“We worked long and hard for passage. It is a good first step.” The Texas Antiquities Committee reported that they plan to establish underwater parks in accordance with the act. Texas guarantees recreational exploration of shipwreck sites by allowing “nondestructive recreational access to all wrecks.”

Utah

Only answered Likert scale questions.

Washington

Answered Likert scale questions and included shipwreck-related statutes.

West Virginia

Answered Likert scale and revenue questions.

Wisconsin

“The act firmly places historic shipwreck management within state historic preservation law, removing it from Federal Admiralty law, a loophole previously much exploited by commercial salvors and treasure hunters. The recognition of historic shipwrecks as historical and archaeological entities at the federal level will greatly aid those states wishing to protect and manage submerged cultural resources.” The State Historical Society of Wisconsin plans to establish underwater parks and expects funding from, “existing state and federal development grants, or additional legislative funding for marine preserve management.” Wisconsin allows for appropriate public and private sector recovery of shipwrecks . . . under field archaeology permits issued by the agency’s director, requiring the adequate documentation, conservation, and curation of recovered materials. Commercial salvage of non-historic wrecks may still take place under state abandoned property laws, or may be waived to Admiralty court.”

Wyoming

“No sure” how their agency (State Historic Preservation Office) views the passage of the act, they write, “Should benefit coastal states and states with large interior water bodies. . . . Wyoming was glad to assist in the passage of this act but we see little applicability in this state. Some paddlewheel trips were offered on Yellowstone Lake in Yellowstone National Park, but no resources remain from this turn-of-the-century concession. Most rivers in Wyoming allow for small raft and canoe travel only; commercial water transportation was never important in Wyoming. Water temperatures are always very low and few, if any people, would find value in trying to salvage canoes and rafts.”
REFERENCES

Southern Pacific Co. v. Jensen, 244 U.S. 205 (1916).
United States, Constitution, art VI, cl 2.
United States, U.S. Code, Title 16, §470h.
United States, U.S. Code, Title 43, §1301, et seq.
United States, U.S. Code, Title 43, §2103, et seq.