



**U.S. Environmental Protection Agency**

This document is one section from the Response to Public Comments Document regarding the “Draft National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs,” published in August 2004. You can find the Response to Comments document in its entirety at <http://www.epa.gov/owow/oceans/habitat/artificialreefs/index.html>.

**Response to Public Comments Regarding the  
“Draft National Guidance: Best Management  
Practices for Preparing Vessels Intended to Create  
Artificial Reefs”**

**Responses to Comment #  
EPA-HQ-OW-2004-0003-0029  
and  
Appendices A, B, and C**

**May 2006**

**Response to Public Comments regarding the  
Draft National Guidance: Best Management Practices for Preparing  
Vessels Intended to Create Artificial Reefs  
69 Fed. Reg. 46141 (August 2, 2004)**

**Docket ID:** EPA-HQ-OW-2004-0003. “Draft National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs.” 69 Fed. Reg. 46141 (August 2, 2004).

**Public Comment**

**Docket Document ID:** EPA-HQ-OW-2004-0003-0029  
**Author Date:** October 7, 2004  
**Author:** Barry E. Chambers  
International Shipbreaking Limited

October 7, 2004

From: Barry E. Chambers  
Co-Chief Operating Officer  
International Shipbreaking Limited

To: Laura S. Johnson  
USEPA/OWOW

Subject: Comments on reefing guidance

**Comment # P-1:**

1. Fixed Ballast

The guidance implies that lead ballast may remain for salt water reefing. However, a percentage of Navy combat vessel fixed lead ballast is found in fuel tanks and is covered with a sludge residue. It is an uncertain process to assure that all six sides of the lead ballast are properly cleaned because of their tight placement. In this situation, would the bars be subject to removal?

**Response to Comment # P-1:**

According to the draft BMPs, the narrative clean-up goal for oil and fuel is to “remove liquid hydrocarbons (fuels, oils) and semi-solids (greases) so that: no visible sheen is remaining on the tank surfaces (this includes all interior fittings, piping, structural members) or on the water surface when the equipment is flooded after sinking; no film or visible accumulation (e.g., spills on decking or carpet) is remaining on any vessel structure or component.” The Oil and Fuel Section has a subheading “Fuel and Oil Tanks,” which specifies how fuel and oil tanks should be cleaned/prepared. Appendix F presents suggested cleaning methods for liquid hydrocarbons (fuels, oils) and semi-solids (greases). These clean-up recommendations apply to tank components and parts, including fixed lead

ballast. If you cannot clean the fixed lead ballast to meet the narrative clean-up goal, such lead ballast should be removed.

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**Comment # P-2:**

Many cargo vessels were ballasted with drilling mud as a method to convert to carrying containers. Typically this drilling mud will have a TPH above 100 PPM. Will the EPA require the removal of this drilling mud and the subsequent cleaning of the tank?

**Response to Comment # P-2:**

As stated in the draft BMPs, the aim of hydrocarbon clean-up is to remove liquid hydrocarbons (fuels, oils). Based on your description, the drilling mud would need to be removed due to the presence of petroleum hydrocarbons. The revised narrative clean-up goal for oil and fuel includes the “removal of liquid fuels and oils and semi-solids (greases) so that: no visible sheen is remaining on the tank surfaces (this includes all interior fittings, piping, structural members); no film or visible accumulation is remaining on any vessel structure or component (e.g., on machinery or from spills on decking or carpet). The end result of such clean-up should be that no sheen be visible upon sinking a vessel.” Further, the vessel preparation section of the Oil and Fuel chapter states that tank interiors should be cleaned of all hydrocarbons.

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**Comment # P-3:**

If any “fixed” ballast were to be removed by a contractor, would not the vessel stability have to be recalculated by competent authority before towing and placement for reefing?

**Response to Comment # P-3:**

As stated in the BMP guidance document, operations associated with salvage, clean-up, and diver access have the potential to adversely impact vessel stability. Failure to consider the impact of these activities on vessel stability before and during scuttling operations could result in premature and uncontrolled capsizing and/or sinking of the vessel. Therefore, vessel stability considerations should be an integral part of the salvage, clean-up, modification (for diver access), transport, and sinking plans of a ship to reef project.

If the vessel’s stability is compromised as a result of vessel cleaning/preparation, the vessel may need to be re-stabilized prior to towing to the sink site. A vessel sink and tow plan would address this issue. Discussions pertaining to vessel sink and tow plans are beyond the scope of the BMP guidance document. The final BMP guidance document states that “this document does not provide information on how to sink a vessel or the required actions or regulatory procedures/processes associated with the act of sinking a vessel.”

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**Comment # P-4:**

2. PCB

In light of the recent findings of the effects of PCB in paint in Lewiston, Montana, does the EPA plan to re-evaluate the effects of PCB paint on artificial reefs?

**Response to Comment # P-4:**

EPA has no plans to specifically address the effects of paint manufactured with regulated levels of PCBs on artificial reefs. As with other materials manufactured with PCBs  $\geq 50$  ppm found onboard vessels, paints manufactured with PCBs  $\geq 50$  ppm will either have to be removed or be addressed as a component of a risk-based disposal approval.

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**Comment # P-5:**

The EPA paint sampling protocol/guidance identifies method 8082, soxlet extraction and toluene as the extraction solvent. Does the EPA continue to “require” that procedure and will that procedure and the extraction solvent be specifically identified in the guidance? My concern is that many labs do not use the soxlet extraction and many more use hexane as an extraction solvent in all matrixes. It is possible that the different lab techniques could cause variations between contractors in the bidding process and also, the various agencies involved in the process.

**Response to Comment # P-5:**

The PCB regulations do not require sampling or analysis. Even though the regulations do not require testing, the regulations say that the disposal is based on a concentration and that concentration must be from an accurate measurement that would rely on a complete and thorough extraction. EPA has expressed a preference for SW-846 extraction method 3540c (Soxhlet Extraction) using toluene as the extraction solvent instead of hexane or hexane:acetone mixture. Please see response below concerning the Paint Sampling Guidance.

Sampling and analytical methods are not addressed in this guidance. All inquiries regarding sampling and analytical methods for materials containing PCBs should be directed to EPA’s appropriate PCB Regional coordinator. A list of EPA’s current PCB Regional coordinators may be found at [www.epa.gov/pcb/coordin.html](http://www.epa.gov/pcb/coordin.html).

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**Comment # P-6:**

Does the EPA anticipate including the paint sampling and stratum I, II and III guidance in this new reefing guidance to assure consistency in sampling methodology.

**Response to Comment # P-6:**

EPA did not include the paint sampling and stratum guidance in the final BMP guidance document. Both sampling plans have been superseded by the 1998 PCB Disposal Amendments. These sampling plans were developed in 1995 as part of an enforcement

agreement between EPA and MARAD for domestic scrapping but never used. They were designed to assist domestic scrappers in locating materials containing regulated levels of PCBs and require only a minimum amount of samples. They are based on the premise that EPA knew what the final disposal options for both regulated and non-regulated materials would be; final disposal was controlled, while this is not the case with artificial reefing where disposal is not controlled.

The sampling plans rely on best engineering judgment and were developed without supporting data. They have never been tested, used, or verified. There is no data to support or disprove these methods. These sampling plans do not guarantee or provide any sort of confidence level that all regulated materials will be found.

If desired, sampling and analytical plans can be developed as part of an application for a risk-based disposal approval.

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**Comment # P-7:**

Does reefing beyond either the 3 or 12 mile limits with any level of PCB above 50 PPM cause a concern with regard to “export” per 40CFR Part 761 Subchapter F.

**Response to Comment # P-7:**

Reefing of ships which contain bulk product waste or PCB remediation waste beyond either the 3 or 12 mile limits with PCB does not cause any concern for “export” under 40 C.F.R. part 761 Subchapter F. Due to the nature of artificial reefing activities, it is expected that domestic reefing will occur within the boundary of the outer continental shelf, where EPA has jurisdiction to regulate the disposal of any PCBs as a domestic matter. The Outer Continental Shelf Lands Act, 43 U.S.C. § 1331, et seq., extends the jurisdiction of federal laws 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.” 43 U.S.C. § 1331(a)(1). Therefore, EPA does not anticipate that reefing activities will implicate the regulations cited by the commenter.

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**Comment # P-8:**

There was a fairly recent United Nations global treaty, that plans a long-term program to make the world free of PCB by 2028. As I understand, the US has signed the treaty but the Senate has yet to ratify. Does the knowing placement of any PCB in the marine environment cause the EPA concern with regard to this treaty?

**Response to Comment # P-8:**

The treaty mentioned in the comment would seem to be the Stockholm Convention. The U.S. is a signatory to the Stockholm Convention, but has not yet ratified the treaty. Thus, the U.S. is not legally bound by the various provisions of the Convention. However, as a signatory, under international law the U.S. may not act so as to defeat the object and

purposes of the Convention. EPA believes that TSCA PCB approval processes are adequate to effectuate any relevant U.S. obligations under the Stockholm Convention. For further discussion, see *Response to Comment #s O-I-58 and O-I-60*.

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**Comment # P-9:**

3. Non-asbestos insulation

Naval vessels generally contain large quantities of fiberglass insulation throughout the vessel. The center and after houses of cargo vessels will also contain this same type of insulation behind asbestos wallboard. This material will initially float. On naval vessels, the pins holding this insulation will quickly succumb to electrolysis and the material will become free within the vessel. Does the EPA intend to not suggest the removal of floatable fiberglass insulation? .

**Response to Comment # P-9:**

To address the above comment, EPA revised the draft BMP guidance document as follows:

“Consideration should also be given to the removal of items that could become a floatable over time (e.g., floatable fiberglass insulation, floatable foam).”

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**Comment # P-10:**

Cargo vessels with refrigerated holds may contain “large” quantities of floatable foam behind stainless, aluminum or wood interior barriers. On first glance, the material would appear contained within the vessel. However, electrolysis will quickly attack the fasteners and this material will float, depending on the depth. Does the EPA intend to not suggest the removal of floatable foam insulation in refrigerated spaces?

**Response to Comment # P-10:**

See *Response to Comment # P-9*.

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**Comment # P-11:**

Naval vessels use a foam insulation on most fire, water and sewage piping. This material is well attached, but is a floatable. Will the EPA not suggest the removal of floatable foam insulation on interior vessel piping?

**Response to Comment # P-11:**

See *Response to Comment # P-9*.

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**Comment # P-12:**

4. Hydrocarbons

Is “cosmoline” when used as a preservative considered dried grease and not subject to removal? What if the cosmoline were to contain PCB greater than 50 PPM?

**Response to Comment # P-12:**

Cosmoline is a hydrocarbon semi-solid. As such it should be removed. Per the BMP guidance, the clean-up goal is to remove liquid fuels and oils and semi-solids (greases) so that: no visible sheen is remaining on the tank surfaces (this includes all interior fittings, piping, structural members); no film or visible accumulation is remaining on any vessel structure or component (e.g., on machinery or from spills on decking or carpet). The end result of such clean-up should be that no sheen be visible upon sinking a vessel.

Essentially, the aim of clean-up is to remove liquid fuels, oils, and grease. Although it is impossible to remove all fuels, oils, and grease, a very thorough clean-up is achievable. In general, all liquid fuels and oils and semi-solids (greases) should be drained, flushed, and cleaned from fuel/lube and fluid system equipment (including piping, interior fittings, and structural members) so that no visible sheen remains on the tanks or other associated fluid system structures.

EPA has no information of cosmoline being manufactured with or containing PCBs. If cosmoline is thought to or found to contain  $\geq 50$  ppm PCBs, it will either have to be removed and disposed of according to the PCB regulations, or be addressed as a component of a risk-based disposal approval.

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**Comment # P-13:**

5. Paint

If exfoliating paint is analyzed for disposal and that paint has failed TCLP for lead and chrome, which is often the case, the remediation contractor will be required to handle that material as a hazardous waste because it has failed a leachate test. Does the EPA not see a contradiction in placing the remaining paint underwater, in a worse environment than a municipal landfill, from which it is banned because of its leachate status?

**Response to Comment # P-13:**

Removal of intact interior and exterior paints above the waterline generally is not necessary. Topside paint may contain other constituents, such as trace metals or biocides. Unlike underwater hull paint containing high concentrations of biocides designed to leach rapidly, topside paints are designed for long life. They also may contain significantly lower levels of these substances than hull coatings. However, exfoliating paint (paint that

is blistering, peeling, and pitting) and exfoliated paint (paint chips and flakes) should be removed.

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**Comment # P-14:**

6. Artificial reef lifespan

It is understood by some diver/marine persons that vessels will degrade and collapse over a period of time. Shallow coastal salt water environments would degrade faster than say, Lake Superior at 600 feet. Naval combat vessels may degrade faster than Marad cargo vessels because of the presence of higher nobility metals. It might be worth evaluating the removal, to the extent possible, of metals with a higher nobility than Steel and Aluminum.

**Response to Comment # P-14:**

Because the purpose of creating an artificial reef is to benefit the environment by enhancing aquatic habitat and marine resources, as well as providing an additional option for conserving, managing, and/or developing fisheries resources, artificial reefs should not cause harm to existing living marine resources and habitats.

Though it is beyond the scope of this document to provide details on the monitoring aspects of a given vessel-to-reef project, the BMP guidance document does mention the importance of planning (including siting), long-term monitoring, and evaluation as necessary components of each project to help ensure that the anticipated benefits of artificial reefs are attained. Such monitoring and evaluation of a given reef would provide opportunities to maintain the integrity of the reef. The following text will also be included in the final version of the BMP guidance document:

“Project planners should evaluate vessel-to-reef projects and potential sites with regard to chemical and biological conditions as well as long-term durability and stability, as these will affect future habitat value.”

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*Appendix A*

**Federal Register Notice of Availability and Request for Public Comments on the Draft National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs**

diverse representation across sectors and geographic locations, those with the following backgrounds and in the following locations are especially encouraged to apply: Environmental officials from the California state government; environmental officials from the Arizona state government; and non-governmental representatives from the state of Arizona. Other individuals are also welcome to send in nominations and apply themselves.

**DATES:** Suggested deadline for receiving nominations is August 15, 2004. Appointments will be made by the Administrator of the Environmental Protection Agency. Appointments are scheduled to be announced in September 2004 in advance of the Board's next meeting, scheduled for October 27–28, 2004.

**ADDRESSES:** Submit nomination materials to: Elaine Koerner, Designated Federal Officer, Good Neighbor Environmental Board, EPA Region 9 Office, WTR–4, 75 Hawthorne St., San Francisco, CA., 94105, T: 415–972–3437, F: 415–947–3537, e-mail [koerner.elaine@epa.gov](mailto:koerner.elaine@epa.gov).

**FOR FURTHER INFORMATION CONTACT:** Elaine Koerner, Designated Federal Officer, Good Neighbor Environmental Board, EPA Region 9 Office, WTR–4, 75 Hawthorne St., San Francisco, CA., 94105, T: 415–972–3437, F: 415–947–3537, e-mail [koerner.elaine@epa.gov](mailto:koerner.elaine@epa.gov).

**SUPPLEMENTARY INFORMATION:** The Good Neighbor Environmental Board meets three times each calendar year; locations include Washington, DC, and various locations along the U.S.-Mexico border. It was created by the Enterprise for the Americas Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for providing advice to the U.S. President and Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico in order to improve the quality of life of persons residing on the U.S. side of the border. The statute calls for the Board to have representatives from U.S. Government agencies; the governments of the States of Arizona, California, New Mexico and Texas; and private organizations with expertise on environmental and infrastructure problems along the southwest border. Board members typically contribute 10–15 hours per month to the Board's work. The Board membership position is voluntary; travel expenses are covered.

The following criteria will be used to evaluate nominees:

- Residence in one of the four U.S. border states.

- Professional knowledge of, and experience with, environmental infrastructure activities and policy along the U.S.-Mexico border.

- Senior level-experience that fills a gap in Board representation, or brings a new and relevant dimension to its deliberations.

- Representation of a sector or group that is involved in border region environmental infrastructure.

- Demonstrated ability to work in a consensus-building process with a wide range of representatives from diverse constituencies.

- Willingness to serve a two-year term as an actively-contributing member, with possible re-appointment to a second term.

Nominees' qualifications will be assessed under the mandates of the Federal Advisory Committee Act, which requires Committees to maintain diversity across a broad range of constituencies, sectors, and groups.

Nominations for membership must include a resume describing the professional and educational qualifications of the nominee as well as community-based experience. Contact details should include full name and title, business mailing address, telephone, fax, and e-mail address. A supporting letter of endorsement is encouraged but not required.

Dated: July 13, 2004.

**Elaine M. Koerner,**  
*Designated Federal Officer.*

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BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL–OW–FRL–7794–3]

**Draft National Guidance: Best Management Practices for Preparing Vessels Intended To Create Artificial Reefs**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This notice informs the public of the availability of a guidance document containing information on national environmentally-based best management practices for preparation of vessels to be sunk with the intention of creating artificial reefs. This notice of availability commences a 60-day public comment period on the guidance document. The guidance satisfies the mandate of section 3516 of the National Defense Authorization Act for Fiscal

Year 2004. The guidance was also developed in response to the Maritime Administration's (MARAD) request for the U.S. Environmental Protection Agency (EPA) to assist in identifying potential management options for their decommissioned vessel fleet. The EPA is requesting public comment on this document.

**DATES:** EPA will accept comments on the Draft National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs received on or before October 1, 2004.

**ADDRESSES:** Comments may be submitted electronically, by mail or through hand-delivery/courier. Follow the detailed instructions as provided in Section I.C. of the SUPPLEMENTARY INFORMATION section. Electronic files may be e-mailed to:

[OW-Docket@epa.gov](mailto:OW-Docket@epa.gov). Comments may also be mailed to the Water Docket, Environmental Protection Agency, Mail Code: 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OW–2004–0003. Instructions for couriers and other hand delivery are provided in Section I.C.3. The Agency will not accept facsimiles (faxes).

**FOR FURTHER INFORMATION CONTACT:** Laura S. Johnson, Marine Pollution Control Branch (4504T), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460; (202) 566–1273; [johnson.laura-s@epa.gov](mailto:johnson.laura-s@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

**A. Interested Entities**

Entities potentially interested in today's notice are those who want to transfer their vessel for reefing, have the capacity to prepare a vessel for reefing, wish to undertake a vessel-to-reef project, or are responsible for managing an artificial reef. Categories and entities interested in today's notice include.

Category	Examples of interested entities
Federal Government	Maritime Administration, U.S. Army Corps of Engineers, U.S. Coast Guard, U.S. Navy, National Oceanic and Atmospheric Administration.
State/Local/Tribal Government	Governments owning or responsible for artificial reef preparation, placement, and management; coastal communities.

Category	Examples of Interested entities
Industry and General Public.	Shipyards, salvage companies, recreational fishing and scuba diving interests, environmental interest groups.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in this notice. This table lists the types of entities that EPA is now aware could potentially be interested in this notice. Other types of entities not listed in the table could also be interested.

#### *B. How Can I Get Copies of This Document and Other Related Information?*

1. **Guidance Document Electronic Access.** To obtain a copy of the guidance document entitled "Draft National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs," please access our Web site at: <http://www.epa.gov/owow/oceans/habitat/artificialreefs> under "Recent Additions."

2. **Federal Register Docket.** EPA has established a public docket for this notice under Docket ID No. OW-2004-0003. The public docket consists of the documents specifically referenced in this notice and other information related to this notice. The public docket does not include information claimed as Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The public docket is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. To view these materials, we encourage you to call ahead to schedule an appointment. Every user is entitled to copy 266 pages per day before incurring a charge. The docket may charge 15 cents a page for each page over the 266-page limit plus an administrative fee of \$25.00.

3. **Federal Register Electronic Access.** You may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at: <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's

electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view comments, access the index listing of the contents of the public docket, and access those documents in the public docket that are available electronically. Once in the system, select "Search," then key in the appropriate docket identification number.

Certain types of information will not be placed in EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute will not be available for public viewing in EPA's electronic public docket. Copyrighted material will not be placed in EPA's electronic public docket, but will be available only in printed, paper form in the public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Section I.B.2.

For public commenters, it is important to note that comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comments contain copyrighted material, information claimed as CBI, or other information whose disclosure is restricted by statute. When EPA identifies comments containing copyrighted material, EPA will provide a reference to that material in the version of the comments that is placed in EPA's electronic public docket. The entire comment, including the copyrighted material, will be available in the public docket.

Comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

#### *C. How and To Whom Do I Submit My Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comments. Please ensure that your comments are submitted within the specified time period. Comments received after the close of the stated time period will be marked "Late." EPA might not be able to consider late submittals. If you wish to submit information claimed as CBI or information that is otherwise protected by statute, please follow the instructions in Section I.D. Do not use EPA Dockets or e-mail to submit information claimed as CBI or information protected by statute.

1. **Electronically.** If you submit electronic comments as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comments. Also include this contact information on the outside of any disk or CD-ROM you submit, and in any cover letter accompanying the disk or CD-ROM. This ensures that you can be identified as the submitter of the comments and allows EPA to contact you in case EPA cannot read your comments due to technical difficulties or needs further information on the substance of your comments. EPA will not edit your comments, and any identifying or contact information provided in the body of a comment will be included as part of the comments that are placed in the public docket, and made available in EPA's electronic public docket. If EPA cannot read your comments due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comments.

i. **EPA Dockets.** Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket/> and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "Search," and then key in Docket ID No. OW-2004-0003. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact

information unless you provide it in the body of your information.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to: *OW-Docket@epa.gov*, Attention Docket ID No. OW-2004-0003. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comments that are placed in the public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD-ROM.* You may submit comments on a disk or CD-ROM that you mail to the mailing address identified in Section I.C.2. These electronic submissions will be accepted in WordPerfect, or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send an original and three copies of all comments, enclosures, or references, to the Water Docket, Environmental Protection Agency, Mailcode MC-4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OW-2004-0003.

3. *By Hand Delivery or Courier.* Deliver your comments to: EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20004, Attention Docket ID No. OW-2004-0003. Such deliveries are only accepted during the Docket's normal hours of operation as identified in Section I.B.2.

#### *D. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically to the EPA Docket Center or through EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the following address: U.S. Environmental Protection Agency, Mailcode 4504 T, Preparation of Vessels Intended to be Artificial Reefs, 1301 Constitution Ave, NW., Room 7114, EPA West Building, Washington, DC 20004. You may claim information that you submit to EPA as CBI by marking that information CBI (if you submit CBI on disk or CD-ROM, indicate on the outside of the disk or CD-ROM that it contains information claimed as CBI and then identify electronically within the disk or CD-ROM the specific information that is CBI). Information so marked will not be disclosed except in

accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you use a disk or CD-ROM, mark the outside of the disk or CD-ROM clearly to indicate that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult one of the persons identified in the FOR FURTHER INFORMATION CONTACT section.

#### *E. What Should I Consider as I Prepare My Comments for EPA?*

You may find these suggestions helpful for preparing your comments:

1. Explain your comments as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that supports your comments.
4. Provide specific examples to illustrate your concerns.
5. Offer alternatives.
6. Make sure to submit your comments by the deadline identified.
7. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and *Federal Register* citation related to your comments.

#### **II. Background and Today's Action**

Options for managing obsolete and decommissioned military and commercial vessels include re-use of the vessel or parts of the vessel, recycling or scrapping, creating artificial reefs, and disposal on land or at sea. The guidance document made available today addresses one of these management options—artificial reef creation—with the intent of promoting a consistent, national approach.

An interagency workgroup, chaired by EPA, was established to develop national environmentally-based best management practices (BMPs) for the preparation of vessels to be sunk with the intention of creating artificial reefs. The workgroup was comprised of representatives from the EPA, U.S. Coast Guard, U.S. Navy, Maritime Administration (MARAD), U.S. Army Corps of Engineers, National Oceanic

and Atmospheric Administration, and the U.S. Fish and Wildlife Service. Workgroup members assisted in the drafting of various sections of the document.

This guidance is required by section 3516 of the National Defense Authorization Act for Fiscal Year 2004 (Act), which amends existing law to require that MARAD and EPA jointly develop guidance recommending environmental BMPs to be used in the preparation of vessels for use as artificial reefs. These BMPs are to serve as national guidance for Federal agencies for the preparation of vessels for use as artificial reefs. The Act provides that the BMPs are to (A) ensure that vessels prepared for use as artificial reefs "will be environmentally sound in their use as artificial reefs," (B) "promote consistent use of such practices nationwide," (C) "provide a basis for estimating the costs associated with the preparation of vessels for use as artificial reefs," and (D) include measures that will "enhance the utility of the Artificial Reefing Program of the Maritime Administration as an option for the disposal of obsolete vessels."

The guidance identifies materials or categories of materials of concern that may be present aboard vessels, indicates where these materials may be found, and describes their potential adverse impacts if released into the marine environment. The materials of concern include: fuels and oil, asbestos, polychlorinated biphenyls (PCBs), paints, debris (e.g., vessel debris, floatables, introduced material), and other materials of environmental concern (e.g., mercury, refrigerants). Because the BMPs described in the guidance are directed at the environmental concerns associated with using vessels as artificial reefs, other sources of information should also be used with regard to preparation of the vessel from a diver safety perspective or for any other potential in-water uses (e.g., breakwaters or other types of barriers).

For each material or category of material of concern identified above, the guidance provides a general performance clean-up goal and information on methods for attaining those clean-up goals in preparation of the vessel prior to sinking. The guidance also includes a description of each material of concern's shipboard use and where it may be found on a vessel, as well as its expected impacts if released into the marine environment.

The guidance describes guidelines for the preparation of vessels in a manner that are intended to ensure that the marine environment will benefit from

their use as an artificial reef. Because strategic siting is an essential component of a successful artificial reef project, the guidance also discusses reef siting.

Dated: July 20, 2004.

Benjamin H. Grumbles,

Acting Assistant Administrator, Office of Water.

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**FEDERAL COMMUNICATIONS COMMISSION**

**Sunshine Act Meeting; Open Commission Meeting; Wednesday, August 4, 2004**

July 28, 2004.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, August 4, 2004, which is

scheduled to commence at 9:30 a.m. in Room TW-C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Homeland Security Policy Council	The Homeland Security Policy Council will present a report concerning this year's FCC regulatory, outreach, and partnership initiatives in support of homeland security.
2	Office of Engineering and Technology	<i>Title:</i> Communications Assistance for Law Enforcement Act and Broadband Access and Services (RM-10865). <i>Summary:</i> The Commission will consider a Notice of Proposed Rulemaking and Declaratory Ruling concerning the appropriate legal and policy framework of the Communications Assistance for Law Enforcement Act.
3	Office of Engineering and Technology	<i>Title:</i> New Part 4 of the Commission's Rules Concerning Disruptions to Communications (ET Docket No. 04-35). <i>Summary:</i> The Commission will consider a Report and Order concerning the reporting of service disruptions by providers of telecommunications services.
4	Enforcement	<i>Title:</i> Review of the Emergency Alert System. <i>Summary:</i> The Commission will consider a Notice of Inquiry concerning the examination of the Emergency Alert System as an effective mechanism for warning the American public during an emergency.
5	Wireline Competition	<i>Title:</i> Schools and Libraries Universal Service Support Mechanism (CC Docket No. 02-6). <i>Summary:</i> The Commission will consider a Fifth Report and Order concerning measures to protect against waste, fraud and abuse in the administration of the schools and libraries universal service support mechanism.
6	Wireline Competition	<i>Title:</i> Review of the Section 251 Unbundling Obligations for Incumbent Local Exchange Carriers (CC Docket No. 01-338); Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (CC Docket No. 96-98); and Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98-147). <i>Summary:</i> The Commission will consider an Order on Reconsideration addressing, in part, petitions filed by BellSouth and SureWest for clarification and/or partial reconsideration of the <i>Triennial Review Order</i> (FCC 03-96).
7	Media	<i>Title:</i> Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (MB Docket No. 03-15, RM-9832). <i>Summary:</i> The Commission will consider a Report and Order concerning the conversion of the nation's broadcast television system from analog to digital television.
8	Media	<i>Title:</i> Digital Output Protection Technologies and Recording Method Certifications (MB Docket Nos. 04-55, 04-56, 04-57, 04-58, 04-59, 04-60, 04-61, 04-62, 04-63, 04-64, 04-65, 04-66, and 04-68). <i>Summary:</i> The Commission will consider an Order responding to certifications received in response to an initial certification window by which digital output protection technologies and recording methods could be authorized for use and give effect to the Redistribution Control Descriptor set forth in ATSC Standard A/65B (the "flag").
9	Consumer & Governmental Affairs	<i>Title:</i> Rules and Regulations Implementing of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CG Docket No. 04-53); and Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CG Docket No. 02-278). <i>Summary:</i> The Commission will consider an Order concerning implementation of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003.

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418-0500; TTY 1-888-835-5322. Audio/Video coverage of the meeting will be broadcast live over the Internet from the

FCC's Audio/Video Events Web page at <http://www.fcc.gov/realaudio>.

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these

services call (703) 993-3100 or go to <http://www.capitolconnection.gmu.edu>. Audio and video tapes of this meeting can be purchased from CACI Productions, 14151 Park Meadow Drive, Chantilly, VA 20151, (703) 679-3851.

*Appendix B*  
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## Appendix C

### *National Defense Authorization Act for Fiscal Year 2004*

The National Defense Authorization Act for Fiscal Year 2004 (PL 108-136) included two provisions relating to the use of vessels as artificial reefs. One such provision, § 3516 (PL 108-136, Div. C, Title XXXV, § 3516, Nov. 24, 2003, 117 Stat. 1795), amended the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (PL 107-314, Div. C, Title XXXV, § 3504(b), Dec. 2, 2002, 116 Stat. 2754; 16 U.S.C. 1220 note) to read in pertinent part as follows:

***Title XXXV – Maritime Administration***

***Subtitle A – Maritime Administration Reauthorization***

***Section 3516. AUTHORITY TO CONVEY OBSOLETE VESSELS TO UNITED STATES TERRITORIES AND FOREIGN COUNTRIES FOR REEFING***

**(b) Environmental Best Management Practices for Preparing Vessels for Use as Artificial Reefs.—**

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

(2) The guidance recommending environmental best management practices under paragraph (1) shall be developed in consultation with the heads of other Federal agencies, and State agencies, having an interest in the use of vessels as artificial reefs.

(3) The environmental best management practices under paragraph (1) shall --

(A) include recommended practices for the preparation of vessels for use as artificial reefs to ensure that vessels so prepared will be environmentally sound in their use as artificial reefs;

(B) promote consistent use of such practices nationwide;

(C) provide a basis for estimating the costs associated with the preparation of vessels for use as artificial reefs; and

(D) include mechanisms to enhance the utility of the Artificial Reefing Program of the Maritime Administration as an option for the disposal of obsolete vessels.

(4) The environmental best management practices developed under paragraph (1) shall serve as national guidance for Federal agencies for the preparation of vessels for use as artificial reefs.

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

(6) The Secretary of Transportation shall submit to Congress a report on the environmental best management practices developed under paragraph (1) through the existing ship disposal reporting requirements in section 3502 of Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 1654A-492) [Pub.L. 106-398, Div. C, Title XXXV, § 3502, Oct. 30, 2000, 114 Stat. 1654A-492, which is not classified to the Code]. The report shall describe such practices, and may include such other matters as the Secretary considers appropriate.

The second such provision, § 1013 (PL 108-136, Div. A, Title X, § 1013, Nov. 24, 2003, 117 Stat. 1590), amended Title 10 of the United States Code by adding § 7306b. New § 7306b(a) authorizes the Secretary of the Navy to transfer vessels stricken from the Naval Vessel Register for use as an artificial reef. New § 7306b (c) requires the Secretary of the Navy to ensure that the preparation of a vessel transferred pursuant to 10 U.S.C. § 7306b (a) for use as an artificial reef is conducted in accordance with the environmental best management practices developed pursuant to 16 U.S.C. § 1220 note and applicable environmental laws. The complete text of Section 1013 of the National Defense Authorization Act for Fiscal Year 2004 is as follows:

***Title X – General Provisions***

***Subtitle B – Naval Vessels and Shipyards***

***Section 1013. TRANSFER OF VESSELS STRICKEN FROM THE NAVAL VESSEL REGISTER FOR USE AS ARTIFICIAL REEFS.***

(a) AUTHORITY TO MAKE TRANSFER- Chapter 633 of title 10, United States Code, is amended by inserting after section 7306a the following new section:

**Sec. 7306b. Vessels stricken from Naval Vessel Register: transfer by gift or otherwise for use as artificial reefs**

(a) AUTHORITY TO MAKE TRANSFER- The Secretary of the Navy may transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register to any State, Commonwealth, or possession of the United States, or any municipal corporation or political subdivision thereof, for use as provided in subsection (b).

`(b) VESSEL TO BE USED AS ARTIFICIAL REEF- An agreement for the transfer of a vessel under subsection (a) shall require that--

`(1) the recipient use, site, construct, monitor, and manage the vessel only as an artificial reef in accordance with the requirements of the National Fishing Enhancement Act of 1984 (33 U.S.C. 2101 et seq.), except that the recipient may use the artificial reef to enhance diving opportunities if that use does not have an adverse effect on fishery resources (as that term is defined in section 2(14) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(14)); and

`(2) the recipient obtain, and bear all responsibility for complying with, applicable Federal, State, interstate, and local permits for using, siting, constructing, monitoring, and managing the vessel as an artificial reef.

`(c) PREPARATION OF VESSEL FOR USE AS ARTIFICIAL REEF- The Secretary shall ensure that the preparation of a vessel transferred under subsection (a) for use as an artificial reef is conducted in accordance with--

`(1) the environmental best management practices developed pursuant to section 3504(b) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 16 U.S.C. 1220 note); and

`(2) any applicable environmental laws.

`(d) COST SHARING- The Secretary may share with the recipient of a vessel transferred under subsection (a) any costs associated with transferring the vessel under that subsection, including costs of the preparation of the vessel under subsection (c).

`(e) NO LIMITATION ON NUMBER OF VESSELS TRANSFERABLE TO PARTICULAR RECIPIENT- A State, Commonwealth, or possession of the United States, or any municipal corporation or political subdivision thereof, may be the recipient of more than one vessel transferred under subsection (a).

`(f) ADDITIONAL TERMS AND CONDITIONS- The Secretary may require such additional terms and conditions in connection with a transfer authorized by subsection (a) as the Secretary considers appropriate.

`(g) CONSTRUCTION- Nothing in this section shall be construed to establish a preference for the use as artificial reefs of vessels stricken from the Naval Vessel Register in lieu of other authorized uses of such vessels, including the domestic scrapping of such vessels, or other disposals of such vessels, under this chapter or other applicable authority.'

(b) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7306a the following new item:

`7306b. Vessels stricken from Naval Vessel Register: transfer by gift or otherwise for use as artificial reefs.'