

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5745
OFFERED BY MR. EZELL OF MISSISSIPPI

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Marine Fisheries Habi-
3 tat Protection Act”.

4 SEC. 2. USE OF CERTAIN OFFSHORE OIL AND GAS PLAT-
5 FORMS FOR ARTIFICIAL REEFS.

6 (a) NATIONAL FISHING ENHANCEMENT ACT OF
7 1984.—The National Fishing Enhancement Act of 1984
8 (33 U.S.C. 2101 et seq.) is amended—

9 (1) in section 206 (33 U.S.C. 2105), to read as
10 follows:

11 “SEC. 206. DEFINITIONS.

12 “In this title:

13 “(1) APPLICANT.—The term ‘applicant’—

14 “(A) means, with respect to an inactive
15 structure, a person—

16 “(i) that is a current or former lessee,
17 holder of a right-of-way or right-of-use and
18 easement, or owner of operating rights

1 issued or otherwise granted under the
2 Outer Continental Shelf Lands Act (43
3 U.S.C. 1301 et seq.); and

4 “(ii) that—

5 “(I) has operational control of or
6 regulatory responsibility for the inac-
7 tive structure;

8 “(II) has received an order from
9 the Secretary of the Interior to carry
10 out decommissioning of the inactive
11 structure; or

12 “(III) is otherwise legally respon-
13 sible for decommissioning the inactive
14 structure; and

15 “(B) includes a person that is deemed
16 under section 209(d) to be a person described
17 in clause (i) with respect to the inactive struc-
18 ture.

19 “(2) APPROVED STRUCTURE.—The term ‘ap-
20 proved structure’ means an eligible structure ap-
21 proved for reefing in place by the Secretary of the
22 Interior under section 209(a)(6).

23 “(3) ARTIFICIAL REEF.—The term ‘artificial
24 reef’—

1 “(A) means a structure, including an oil or
2 gas platform, structure, or facility, that is lo-
3 cated, constructed, or placed in waters covered
4 under this title for the purpose of enhancing
5 fishery resources and commercial and rec-
6 reational fishing opportunities; and

7 “(B) includes any approved structure for
8 which reefing in place has been completed.

9 “(4) COVERED WATERS; WATERS COVERED
10 UNDER THIS TITLE.—The terms ‘covered waters’
11 and ‘waters covered under this title’ mean—

12 “(A) the navigable waters of the United
13 States; and

14 “(B) the waters superjacent to the outer
15 Continental Shelf.

16 “(5) DECOMMISSION; DECOMMISSIONING.—The
17 terms ‘decommission’ and ‘decommissioning’—

18 “(A) mean—

19 “(i) ending oil or gas operations under
20 a lease, right-of-way, or right-of-use and
21 easement issued or granted under the
22 Outer Continental Shelf Lands Act (43
23 U.S.C. 1301 et seq.); and

24 “(ii) returning the area subject to
25 such a lease, right-of-way, or right-of-use

1 and easement to a condition that complies
2 with applicable law; and

3 “(B) include—

4 “(i) reefing in place of approved
5 structures;

6 “(ii) removal of oil and gas platforms,
7 structures, and facilities; and

8 “(iii) a combination of the activities
9 described in clauses (i) and (ii).

10 “(6) ELIGIBLE STRUCTURE.—The term ‘eligible
11 structure’ means an inactive structure that the Sec-
12 retary of the Interior determines is eligible for
13 reefing in place under section 209(a)(4).

14 “(7) ESTABLISHED REEF ECOSYSTEM.—The
15 term ‘established reef ecosystem’ means an area that
16 supports corals, crustaceans, fish, or other marine
17 life that use reefs or other hard substrate for shel-
18 ter, feeding, spawning, recruitment, or another life-
19 history function or as nursery habitat, as docu-
20 mented in an assessment conducted pursuant to sec-
21 tion 209(a)(3).

22 “(8) INACTIVE STRUCTURE.—The term ‘inac-
23 tive structure’ means an oil or gas platform, struc-
24 ture, or facility and any associated equipment and
25 infrastructure that—

1 “(A) an applicant determines is no longer
2 useful for oil or gas operations; or

3 “(B) is located—

4 “(i) on or in an area that was subject
5 to a lease, right-of-way, right-of-use and
6 easement or other similar right that has
7 expired, terminated, been relinquished or
8 abandoned, or is otherwise no longer valid
9 and effective; or

10 “(ii) on the sea floor as a result of an
11 act of God or another event of force
12 majeure.

13 “(9) OUTER CONTINENTAL SHELF.—The term
14 ‘outer Continental Shelf’ has the meaning given the
15 term in section 2 of the Outer Continental Shelf
16 Lands Act (43 U.S.C. 1331).

17 “(10) PARTIAL REMOVAL.—The term ‘partial
18 removal’—

19 “(A) means the severance and, as applica-
20 ble, removal of a portion of an inactive struc-
21 ture at a level that the Secretary of the Inte-
22 rior, in consultation with the Secretary of the
23 Department in which the Coast Guard is oper-
24 ating, determines maximizes the vertical relief
25 of the structure in the water column at the

1 minimum depth from the surface to maintain
2 navigational safety; and

3 “(B) includes—

4 “(i) placement of the severed portion
5 of an inactive structure on the sea floor—

6 “(I) in proximity to the base of
7 the unsevered portion of the inactive
8 structure; or

9 “(II) at a reef planning area; and

10 “(ii) removal of the severed portion of
11 an inactive structure from covered waters.

12 “(11) REEF IN PLACE; REEFING IN PLACE.—

13 The terms ‘reef in place’ and ‘reefing in place’ mean
14 the conversion of an approved structure, in whole or
15 in part, into an artificial reef by leaving the ap-
16 proved structure in place, toppling in place the ap-
17 proved structure, or carrying out partial removal of
18 the approved structure in a manner that—

19 “(A) maximizes, to the extent practicable,
20 reef ecosystem habitat for benthic and pelagic
21 species throughout the entirety of the water col-
22 umn; and

23 “(B) the Secretary of the Interior, in con-
24 sultation with the Secretary of the Department
25 in which the Coast Guard is operating, deter-

1 mines is at the appropriate minimum depth
2 from the surface to maintain navigational safe-
3 ty.

4 “(12) REEF PLANNING AREA.—The term ‘reef
5 planning area’ means a geographic area identified
6 and designated by the Secretary of the Interior, in
7 coordination with the Secretary of the Army, acting
8 through the Chief of Engineers, under section
9 209(a)(5) within which an eligible structure may be
10 reefed in place.

11 “(13) STATE.—The term ‘State’ means—

12 “(A) each of the several States;

13 “(B) the District of Columbia;

14 “(C) Puerto Rico;

15 “(D) the United States Virgin Islands;

16 “(E) American Samoa;

17 “(F) Guam;

18 “(G) Johnston Island;

19 “(H) Midway Island; and

20 “(I) Wake Island.

21 “(14) STATE PROGRAM.—The term ‘State Pro-
22 gram’ means a State artificial reef program de-
23 scribed in section 209(c).

24 “(15) TOPPLE IN PLACE; TOPPLING IN
25 PLACE.—The terms ‘topple in place’ and ‘toppling in

1 place’ mean detaching an approved structure or a
2 portion of an approved structure from the seabed
3 and toppling the approved structure or portion of
4 the approved structure onto its side on the seabed
5 in the same area or immediately adjacent to the area
6 where the approved structure was located prior to
7 such detachment.”; and

8 (2) by adding at the end the following:

9 **“SEC. 209. REEF IN PLACE.**

10 “(a) REEF IN PLACE.—

11 “(1) NOTICE OF INTENT.—To be eligible to reef
12 in place, an applicant shall submit to the Secretary
13 of the Interior a notice of intent to reef in place an
14 inactive structure.

15 “(2) REQUIREMENTS.—An applicant shall in-
16 clude in a notice of intent to reef in place an inactive
17 structure submitted under paragraph (1) a certifi-
18 cation, signed by a responsible corporate officer of
19 the applicant or, if the applicant is not a corpora-
20 tion, by a general partner, proprietor, or trustee of
21 the applicant or another individual that has the au-
22 thority to legally bind the applicant, that the appli-
23 cant—

1 “(A) in good faith intends to complete the
2 reefing in place that is the subject of the notice
3 of intent;

4 “(B) has assessed the suitability of the in-
5 active structure for reefing in place;

6 “(C) has designated a State Program that
7 is intended to receive the eligible structure; and

8 “(D) will diligently pursue all permits and
9 other authorizations required to reef in place
10 the inactive structure.

11 “(3) ASSESSMENT.—

12 “(A) IN GENERAL.—Not later than 60
13 days after the date on which the Secretary of
14 the Interior receives a notice of intent to reef
15 in place an inactive structure submitted under
16 paragraph (1), the Secretary, in consultation
17 with the Secretary of Commerce, shall conduct,
18 or appoint a State, the applicant that submitted
19 the notice of intent, or a third party the Sec-
20 retary of the Interior determines is qualified to
21 conduct, an assessment of the inactive structure
22 that is the subject of the notice of intent which
23 shall include an evaluation of the corals, crusta-
24 ceans, fish, and other marine life that use the
25 inactive structure as a habitat.

1 “(B) ASSESSMENT CONDUCTED BY ENTITY
2 OTHER THAN SECRETARY OF THE INTERIOR.—
3 An entity that is appointed by the Secretary of
4 the Interior under subparagraph (A) to conduct
5 an assessment under that subparagraph shall,
6 upon the completion of such assessment, submit
7 to the Secretary a report regarding such assess-
8 ment.

9 “(C) DEADLINE.—To the extent prac-
10 ticable, each assessment conducted under this
11 paragraph shall be completed not later than 1
12 year after the date on which the Secretary of
13 the Interior receives a notice of intent to reef
14 in place an inactive structure submitted under
15 paragraph (1).

16 “(4) ELIGIBILITY DETERMINATION.—

17 “(A) IN GENERAL.—Not later than 60
18 days after the date on which the Secretary of
19 the Interior completes an assessment or receives
20 a report submitted under paragraph (3), the
21 Secretary shall determine in writing whether
22 the applicable inactive structure is eligible for
23 reefing in place.

24 “(B) AFFIRMATIVE DETERMINATION RE-
25 QUIRED.—The Secretary shall determine under

1 subparagraph (A) that an inactive structure is
2 eligible for reefing in place if the Secretary de-
3 termines—

4 “(i) there is—

5 “(I) an established reef eco-
6 system on, under, or in the immediate
7 vicinity of the inactive structure; or

8 “(II) potential for an established
9 reef ecosystem on, under, or in the
10 immediate vicinity of the inactive
11 structure; and

12 “(ii) reefing in place of the inactive
13 structure is appropriate based on criteria
14 described in the National Artificial Reef
15 Plan published under section 204.

16 “(5) DESIGNATION OF REEF PLANNING
17 AREAS.—

18 “(A) IN GENERAL.—Not later than 90
19 days after the Secretary of the Interior deter-
20 mines an inactive structure is eligible for
21 reefing in place under paragraph (4), the Sec-
22 retary, in consultation with the head of the as-
23 sociated State Program, shall designate as a
24 reef planning area—

1 “(i) the footprint of the inactive struc-
2 ture or other location proposed for the
3 reefing in place of the inactive structure;
4 and

5 “(ii) any surrounding area the Sec-
6 retary determines necessary.

7 “(B) TIMING.—The Secretary of the Inte-
8 rior shall designate a reef planning area with
9 respect to an eligible structure before reefing in
10 place of the eligible structure may begin.

11 “(C) RULE OF CONSTRUCTION.—Nothing
12 in this paragraph may be construed to require
13 the redesignation of or otherwise affect any
14 area that is a reef permitted area or an artifi-
15 cial reef site as of the date of the enactment of
16 this paragraph.

17 “(D) APPLICATIONS FOR AUTHORIZATIONS
18 REQUIRED FOR REEFING IN PLACE.—

19 “(i) IN GENERAL.—Not later than
20 180 days after the date on which the Sec-
21 retary of the Interior designates a reef
22 planning area under subparagraph (A)
23 with respect to an eligible structure, the
24 applicable applicant shall submit an appli-
25 cation for each permit or other authoriza-

tion required under Federal law to reef in place the eligible structure, including under section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

“(ii) EFFECT OF FAILURE TO SUBMIT REQUIRED APPLICATIONS.—Except as provided in clause (iii), if an applicant does not submit each application described in clause (i) by the date described in that clause, the Secretary of the Interior shall treat the applicable notice of intent as withdrawn under paragraph (8).

“(iii) APPLICATION FOR EXTENSION.—

“(I) IN GENERAL.—An applicant described in clause (ii) may submit to the Secretary of the Interior not later than the last date of the required time period an application for an extension to the date described in clause (i).

“(II) GOOD CAUSE REQUIREMENT.—The Secretary of the Interior may grant an application for an extension to the date described in clause (i) submitted under subclause (I) of

1 this clause if the Secretary of the In-
2 terior determines the applicant that
3 submitted the application has shown
4 good cause for such extension.

5 “(E) COORDINATION.—Not later than 30
6 days after the date on which the Secretary of
7 the Interior designates a reef planning area
8 under subparagraph (A) with respect to an eli-
9 gible structure, the Secretary of the Interior
10 shall—

11 “(i) transmit such designation and
12 any documents and other information sup-
13 porting such designation to the Secretary
14 of the Army;

15 “(ii) publish the status of each appli-
16 cation described in subparagraph (D)(i)
17 and submitted by the applicable applicant
18 pursuant to that subparagraph; and

19 “(iii) update the status of each appli-
20 cation published under clause (ii) not less
21 frequently than once every 60 days until
22 there is a final agency action with respect
23 to the application.

24 “(6) APPROVAL.—

1 “(A) IN GENERAL.—Not later than 180
2 days after the date on which the Secretary of
3 the Interior designates a reef planning area
4 under paragraph (5)(A) with respect to an eligi-
5 ble structure, the Secretary shall determine
6 whether to approve the eligible structure for
7 reefing in place.

8 “(B) AFFIRMATIVE DETERMINATION RE-
9 QUIRED.—The Secretary shall approve an eligi-
10 ble structure for reefing in place under sub-
11 paragraph (A) if the Secretary determines
12 that—

13 “(i) the eligible structure is reason-
14 ably sound and secure; and

15 “(ii) with respect to the eligible struc-
16 ture—

17 “(I) all associated wells have
18 been permanently plugged and aban-
19 doned pursuant to applicable law, in-
20 cluding pursuant to any departure ap-
21 proved under part 250 of title 30,
22 Code of Federal Regulations (or any
23 successor regulation relating to the
24 mandatory plugging and abandonment
25 of offshore oil and gas wells);

1 “(II) hydrocarbons and other
2 hazardous liquids have been removed
3 in accordance with applicable law;

4 “(III) the applicant has—

5 “(aa) installed identifying
6 markers to protect and aid navi-
7 gation, if so required by applica-
8 ble law;

9 “(bb) confirmed the appli-
10 cant has no outstanding responsi-
11 bility or liability other than de-
12 commissioning and related main-
13 tenance monitoring; and

14 “(cc) entered into an agree-
15 ment to transfer any outstanding
16 responsibility or liability to a
17 State agency upon completion of
18 reefing in place.

19 “(C) REEFING IN PLACE OF APPROVED
20 STRUCTURE.—Not later than 2 years after the
21 date on which the Secretary approves an eligible
22 structure for reefing in place under subpara-
23 graph (A), an applicant may reef in place an
24 approved structure.

1 “(7) ANNUAL REPORT.—Not later than 1 year
2 after the date of the enactment of this subsection,
3 and annually thereafter, the Secretary of the Inte-
4 rior shall submit to the Committee on Natural Re-
5 sources of the House of Representatives and the
6 Committee on Energy and Natural Resources of the
7 Senate a report that—

8 “(A) summarizes each action taken with
9 respect to an inactive structure under this sec-
10 tion that occurred in the preceding 12 months,
11 including each—

12 “(i) notice of intent to reef in place
13 received under paragraph (1);

14 “(ii) assessment conducted under
15 paragraph (3);

16 “(iii) determination made under para-
17 graph (4);

18 “(iv) area designated as a reef plan-
19 ning area under paragraph (5);

20 “(v) determination made under para-
21 graph (6); and

22 “(vi) appeal submitted pursuant to
23 subsection (b); and

1 “(B) includes a comprehensive map of each
2 inactive structure, reef planning area, and ap-
3 proved structure.

4 “(8) WITHDRAWAL OF NOTICE OF INTENT TO
5 REEF IN PLACE.—

6 “(A) IN GENERAL.—An applicant may—

7 “(i) submit to the Secretary of the In-
8 terior at any time a written notice to with-
9 draw a notice of intent to reef in place
10 submitted by the applicant under para-
11 graph (1); and

12 “(ii) upon submission of such written
13 notice, shall—

14 “(I) cease all activities related to
15 reefing in place the applicable inactive
16 structure; and

17 “(II) commence activities related
18 to decommissioning the applicable in-
19 active structure.

20 “(B) EFFECT OF WITHDRAWAL.—An ap-
21 plicant that submits a written notice under sub-
22 paragraph (A)(i) to withdraw a notice of intent
23 to reef in place an inactive structure submitted
24 by the applicant under paragraph (1), or an ap-
25 plicant that submitted a notice of intent to reef

1 in place an inactive structure under paragraph
2 (1) which is treated as withdrawn under para-
3 graph (5)(D)(ii), may not subsequently submit
4 a notice of intent under paragraph (1) to reef
5 in place the same inactive structure.

6 “(9) OTHER REEFING OR DECOMMISSIONING
7 MECHANISMS PRESERVED.—Nothing in this section
8 eliminates, modifies, or otherwise limits the ability of
9 any person to reef in place or otherwise decommis-
10 sion an inactive structure under any other program
11 authorized by this Act, including under section 205.

12 “(b) APPEALS.—

13 “(1) IN GENERAL.—An applicant that is ag-
14 grieved by a decision made pursuant to subsection
15 (a) may, not later than 60 days after the date on
16 which such decision was made, submit to the Sec-
17 retary of the Interior a written appeal describing
18 why the decision should be reconsidered.

19 “(2) DETERMINATION.—Not later than 60 days
20 after the date on which the Secretary of the Interior
21 receives an appeal under paragraph (1), the Sec-
22 retary shall issue a final determination with respect
23 to the appeal.

24 “(c) STATE PROGRAMS.—

1 “(1) IN GENERAL.—A State that has a pro-
2 gram to convert inactive structures into artificial
3 reefs may, not later than 1 year after the date on
4 which the Secretary of the Interior approves an eligi-
5 ble structure for reefing in place under subsection
6 (a)(6), enter into an agreement with the applicable
7 applicant to assume responsibility and liability for
8 the eligible structure in exchange for an amount of
9 funds determined by the State and, upon completion
10 of reefing in place of the eligible structure, the State
11 shall assume responsibility and liability for the eligi-
12 ble structure in accordance with the terms of the
13 agreement.

14 “(2) LIABILITY.—Upon acceptance by a State
15 of an eligible structure into a State Program and the
16 assumption by the State of responsibility and liabil-
17 ity for the eligible structure—

18 “(A) the applicant shall have no responsi-
19 bility or liability, and no other party other than
20 the State, as provided in subparagraph (B),
21 shall have any responsibility or liability, with re-
22 spect to the approved structure following com-
23 pletion of the reefing in place of the approved
24 structure in accordance with this section unless

1 otherwise agreed to by the applicant and the
2 State; and

3 “(B) the State shall be—

4 “(i) solely responsible for the contin-
5 ued maintenance of the approved struc-
6 ture, including maintaining any identifying
7 markers installed to protect and aid navi-
8 gation; and

9 “(ii) exclusively responsible and liable
10 for the approved structure.

11 “(d) SPECIAL CASES FOR APPLICANTS.—

12 “(1) DEEMED APPLICANTS.—

13 “(A) IN GENERAL.—A person other than a
14 person described in section 206(1)(A) may sub-
15 mit to the Secretary of the Interior an applica-
16 tion to be deemed a person described in that
17 section with respect to a given inactive struc-
18 ture.

19 “(B) REQUIREMENTS.—A person that sub-
20 mits an application under subparagraph (A)
21 shall include in such application information
22 that demonstrates that the person has assumed,
23 through a contract or operation of law, respon-
24 sibility for decommissioning the inactive struc-
25 ture that is the subject of the application.

1 “(C) GRANT OR DENIAL OF APPLICA-
2 TION.—Not later than 60 days after the date
3 on which the Secretary of the Interior receives
4 an application under paragraph (1), the Sec-
5 retary shall grant or deny the application.

6 “(D) NOTIFICATION OF OTHER APPLI-
7 CANTS.—If the Secretary of the Interior takes
8 final action on an application received under
9 paragraph (1), the Secretary shall notify each
10 applicant with respect to the inactive structure.

11 “(2) MULTIPLE POTENTIAL APPLICANTS.—

12 “(A) JOINT DESIGNATION.—If more than
13 1 person is described in section 206(1) with re-
14 spect to an inactive structure, the 1 person that
15 is jointly designated in writing to the Secretary
16 of the Interior by each person that is described
17 in that section with respect to the inactive
18 structure shall be the applicant with respect to
19 the inactive structure for the purposes of this
20 section.

21 “(B) OPERATOR OF RECORD.—If more
22 than 1 person is described in section 206(1)
23 with respect to an inactive structure and a joint
24 designation is not made under subparagraph
25 (A) of this paragraph, the operator of record

1 (or the last designated operator if such appoint-
2 ment has expired and no new designated oper-
3 ator has been appointed) for the inactive struc-
4 ture that is designated under section 550.143
5 of title 30, Code of Federal Regulations (or any
6 similar successor regulation) or the primary re-
7 sponsible party determined by the Secretary
8 shall be the applicant with respect to the inac-
9 tive structure for the purposes of this section.”.

10 (b) OUTER CONTINENTAL SHELF LANDS ACT.—Sec-
11 tion 5 of the Outer Continental Shelf Lands Act (43
12 U.S.C. 1334) is amended by adding at the end the fol-
13 lowing:

14 “(k) ARTIFICIAL REEFS.—

15 “(1) DEFINITIONS.—In this subsection:

16 “(A) NFEA TERMS.—The terms ‘appli-
17 cant’, ‘approved structure’, ‘artificial reef’, ‘cov-
18 ered waters’, ‘decommission’, ‘decommis-
19 sioning’, ‘eligible structure’, ‘established reef
20 ecosystem’, ‘inactive structure’, ‘partial re-
21 moval’, ‘reef in place’, ‘reefing in place’, ‘reef
22 planning area’, ‘State’, ‘State Program’, ‘topple
23 in place’, and ‘toppling in place’ have the mean-
24 ing given those terms in section 206 of the Na-

1 tional Fishing Enhancement Act of 1984 (33
2 U.S.C. 2105).

3 “(B) REMOVAL ORDER.—The term ‘re-
4 moval order’—

5 “(i) means an order, notice, or re-
6 quest to fully or partially remove an inac-
7 tive structure sent by a Federal agent;

8 “(ii) includes an order to carry out
9 decommissioning; and

10 “(iii) does not include an order, no-
11 tice, or request relating to the plugging or
12 abandoning of a well.

13 “(2) PROHIBITION ON REMOVAL ORDERS.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraphs (B) and (C), the Secretary may
16 not issue or enforce a removal order with re-
17 spect to an inactive structure during any of the
18 following periods:

19 “(i) The 1-year period beginning on
20 the date on which an applicant submits a
21 notice of intent to reef in place the inactive
22 structure under section 209(a)(1) of the
23 National Fishing Enhancement Act of
24 1984 (33 U.S.C. 2101 et seq.).

1 “(ii) The period beginning on the date
2 on which the Secretary completes an as-
3 sessment under paragraph (3)(A) of sec-
4 tion 209(a)(3) of the National Fishing En-
5 hancement Act of 1984 (33 U.S.C. 2101 et
6 seq.) or receives a report under paragraph
7 (3)(B) of that section for the inactive
8 structure and ending on the date on which
9 the Secretary determines the inactive
10 structure is eligible for reefing in place
11 under paragraph (4) of that section.

12 “(iii) The period beginning on the
13 date on which the Secretary determines the
14 inactive structure is eligible for reefing in
15 place under paragraph (4) of section
16 209(a) of the National Fishing Enhance-
17 ment Act of 1984 (33 U.S.C. 2101 et seq.)
18 and ending on the date that is 2 years
19 after the date on which a reef planning
20 area is designated with respect to the inac-
21 tive structure under paragraph (5) of that
22 section.

23 “(iv) The 150-day period beginning on
24 the date an appeal is filed under sub-
25 section (b) of section 209 of the National

1 Fishing Enhancement Act of 1984 (33
2 U.S.C. 2101 et seq.) with respect to a deci-
3 sion made pursuant to subsection (a) of
4 that section with respect to the inactive
5 structure.

6 “(B) EXCEPTION.—Subparagraph (A)
7 does not apply with respect to an inactive struc-
8 ture that the Secretary of the Interior deter-
9 mines poses a substantial and imminent threat
10 to—

11 “(i) navigational safety;

12 “(ii) human safety; or

13 “(iii) the marine environment.

14 “(C) FILING REQUIREMENT.—Subpara-
15 graph (A) only applies with respect to inactive
16 structures for which an applicant submits a no-
17 tice of intent to reef in place under section
18 209(a)(1) of the National Fishing Enhance-
19 ment Act of 1984 (33 U.S.C. 2101 et seq.) not
20 later than 1 year after the later of—

21 “(i) the date on which the applicable
22 lease, right-of-way, right-of-use and ease-
23 ment or other similar right on which the
24 inactive structure is located expires, termi-

1 nates, is relinquished or abandoned, or is
2 otherwise no longer valid and effective; or
3 “(ii) the date of the enactment of the
4 Marine Fisheries Habitat Protection Act.

5 “(D) RULE OF CONSTRUCTION.—If reefing
6 in place of an inactive structure is not com-
7 pleted as of the date on which all of the periods
8 described in subparagraph (A) conclude, noth-
9 ing in this paragraph may be construed to limit
10 the authority of the Secretary to issue or en-
11 force any order to perform decommissioning of
12 the inactive structure against any party respon-
13 sible for decommissioning the inactive structure
14 under this Act or the regulations implementing
15 this Act.”.

16 (c) EXISTING REGULATIONS.—Except as expressly
17 provided in this Act or an amendment made by this Act,
18 nothing in this Act or the amendments made by this Act
19 may be construed to modify or supersede existing regu-
20 latory procedures for the decommissioning of inactive
21 structures (as that term is defined in section 206 of the
22 National Fishing Enhancement Act of 1984 (33 U.S.C.
23 2105) (as amended by this Act)) under the applicable pro-

1 visions of the Code of Federal Regulations or section 10
2 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

