

## Obsolete Ship Disposal

**ISSUE:** The Maritime Administration (Agency) has suspended the removal of vessels for recycling from the Suisun Bay Reserve Fleet (SBRF) due to the State of California's regulatory concerns and legal challenges regarding in-water hull cleaning of the vessels as it pertains to invasive species, and the exfoliation and discharge of exterior coatings into State waters.

**ACTION NEEDED:** None – For Information Only

### **BACKGROUND:**

- The Federal Property and Administrative Services Act of 1949, 40 U.S.C. 111 (2006), established the Agency as the disposal agent for the Federal Government for obsolete merchant-type vessels of 1,500 gross tons or more. From 1949 to 2001 the primary means for disposal was via competitive sealed bidding (sales) per 46 U.S.C. 57102 (2006).
- In October 2000, Public Law 106-398, the DOD Authorization Act of FY 2001, authorized the Agency to obtain ship recycling services from qualified recycling facilities on a best value basis. This was necessary to dispose of a backlog of over 125 obsolete ships that accumulated during the 1990s. In 2001, the Agency established the Ship Disposal Program to accomplish the requirements of the Act and, for the first time, received appropriated funds for disposal of obsolete ships at foreign and domestic facilities.
- In 2006, the United States Coast Guard (USCG) notified the Agency that its obsolete ships were required to comply with the USCG's implementing regulation for the National Invasive Species Act (33 CFR Part 151, Subpart D) pertaining to aquatic hull growth. In the spring of 2006, the USCG and the Agency reached an agreement to accomplish in-water hull cleaning to remove soft aquatic growth prior to the movement of the vessels from the fleet sites.
- In August 2006, the State of California raised concerns that the in-water cleaning of hulls by the Agency prior to their tow may release hazardous materials contained in some hull coatings into State waters, and that the practice possibly violated the Clean Water Act (CWA) and may require permitting by the State's regional Water Quality Control Board (WQCB). Subsequent discussions with the WQCB have led to an impasse regarding resolution of the in-water hull cleaning and exfoliating of exterior paint issues. As a result, no vessels have been removed from the SBRF since January 2007.
- Complicating the resolution of issues in California is an October 2007 filing of a lawsuit against the Agency by the Natural Resources Defense Council (NRDC) in California related to the in-water hull cleaning and exfoliating paint issues of the SBRF vessels and the August 2008 filing of a Notice of Intent to Sue under the CWA by the WQCB. The Agency is currently involved with the Dept. of Justice in settlement talks with the NRDC and WQCB.
- Notwithstanding the impasse in California, the States of Virginia and Texas, where the Agency's other two fleets sites are located, have agreed to the in-water hull cleaning process. Obsolete vessels continue to be removed for disposal from Agency fleet sites in those two States.

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**Last Updated:** September 19, 2008