

# **REPORT TO CONGRESS ON THE PROGRESS OF THE VESSEL DISPOSAL PROGRAM**

**July 2007**



**Maritime Administration James River Reserve Fleet, Virginia**



**U. S. Department of Transportation  
Maritime Administration**

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# **Report to Congress on the Progress of the Vessel Disposal Program**

## **INTRODUCTION**

This report is submitted pursuant to the following statutory direction:

- The Senate Report [109-109, July 26, 2005] accompanying the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006, P.L.109-115; 119 Stat. 2396 (2005), which requires periodic reporting on the progress made by the Maritime Administration to dispose of the entire inventory of obsolete ships within the National Defense Reserve Fleet (NDRF).
- The National Defense Authorization Act for Fiscal Year 2006, P.L. 109-163, Section 3505(a)(f); 119 Stat. 3552 (2006), which requires periodic reporting by the Secretary of Transportation, in coordination with the Secretary of the Navy, on progress made in implementing plans to dispose of obsolete ships in its programs.

Section I of this consolidated program report summarizes the Maritime Administration's ship disposal accomplishments in Fiscal Year (FY) 2007 through June 1, 2007 and outlines the current ship disposal challenges and plans for the balance of FY 2007 and 2008. A review of the previous reports of the Ship Disposal Program, hereafter referred to as the Program, provides a historical perspective prior to FY 2007. In coordination with the Secretary of the Navy, this Report also includes in Section II the progress of the U.S. Navy's vessel disposal program.

## **I. MARITIME ADMINISTRATION ACCOMPLISHMENTS AND ACTIVITIES IN FISCAL YEAR 2007**

### **Overview**

The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. 106-398, § 3502, 114 Stat. 1654A-490 (2000) (the Act), required the disposal by September 30, 2006, of all vessels in the Maritime Administration's NDRF that were not assigned to the Ready Reserve Force or otherwise designated for a specific purpose. In 2001, the Maritime Administration established the Program to accomplish the requirements of the Act. Since the establishment of the Program, the Maritime Administration has aggressively pursued all feasible disposal alternatives including domestic recycling, artificial reefing, deep-sinking, donation, the sale of ships for recycling and reuse, and the potential for foreign recycling. Because of significant capacity limitations within the domestic recycling industry at the time, it became apparent at the start of the Program in 2001 and 2002 that conventional domestic dismantling, as the predominant means of disposal, was not adequate to dispose of all of the Maritime Administration's non-retention vessels by the September 2006 deadline as

required by the Act. The domestic recycling industry continues to have a very limited capacity despite the fact that the Maritime Administration has qualified eight domestic facilities to compete for recycling contracts, seven of which have been awarded contracts by the Maritime Administration. To date, the eighth facility has not been competitive from a best-value standpoint. The domestic ship recycling industry is heavily dependent on the supply of the Maritime Administration and Navy ships, thus adequate capacity will be increasingly problematic if budgets for ship disposal are not consistent and recycling contractors experience large variations in workload that cause the lay off of trained and skilled workers.

At this time, due to statutory constraints contained in the Toxic Substances Control Act (TSCA) and other environmental statutes, foreign disposal of obsolete vessels is not a commercially practicable option. This is primarily due to the general TSCA prohibition on the export of polychlorinated biphenyls (PCBs) and the amount of time necessary to complete the lengthy formal Environmental Protection Agency (EPA) rulemaking process to gain an exemption to export the Maritime Administration's obsolete vessels containing PCBs.

Since 2001, the Maritime Administration has removed 87 ships for disposal from its three fleet sites. There are currently 114 vessels in the NDRF designated as obsolete that are not yet under contract for disposal. As the disposal agent for federally owned commercial type ships, the Maritime Administration continually receives non-retention ships into the disposal inventory. On average, 13 ships per year are added to the disposal queue. Even with the significant progress made, the Maritime Administration was unable to achieve the requirements of the Act by the statutory deadline of September 30, 2006.

The Maritime Administration first reported to the Congress in 2002 that due to several factors it was unlikely to meet the statutory deadline. Insufficient domestic capacity; the lack of any active, qualified recycling facilities on the West Coast; and the lack of access to foreign recycling have limited the number of ships that can be disposed of annually. Even with the increases since 2003, domestic recycling capacity remains limited in spite of continued robust market demand for ferrous and non-ferrous scrap metal by both domestic and foreign smelters and record high prices in particular for ferrous scrap metals, which have been steadily climbing for the last 3 years. Access to additional cost effective capacity, either foreign or domestic, will be necessary for the Maritime Administration to achieve expedited disposition of the remaining vessels in the NDRF inventory, including additional vessels that are added to the disposal inventory annually.

### **New Program Challenge – Aquatic Nuisance Species**

In addition to challenges related to TSCA and PCBs, the Maritime Administration faced a new environmental challenge in FY 2006 that has significant budget and disposal rate implications for the foreseeable future. The Maritime Administration was notified by the United States Coast Guard (USCG) late in the first quarter of FY 2006 that the Maritime Administration's obsolete ships were required to comply with 33 CFR Part 151, Subpart D (pertaining to aquatic hull growth), which became effective in September 2004 and is the USCG's implementing regulation for the National Invasive Species Act (NISA) of 1996.

While the regulation appears to apply to “operating vessels” only, the USCG’s interpretation expanded the definition to include all vessels, including the Maritime Administration’s non-retention ships, which are not operational and will only be towed to a recycling facility for disposal. The USCG interpretation is meant to address the potential that the movement of ships for disposal via towing could serve as a vector for transmitting aquatic invasive species within the United States. There has been much disagreement with the USCG interpretation and application of NISA and its regulations to Maritime Administration vessels, while at the same time providing an exemption for the Coast Guard and Navy from cleaning their own hulls.

In the spring of 2006, the USCG and the Maritime Administration reached an agreement to accomplish in-water hull cleaning (called scamping) to remove soft aquatic growth prior to the movement of these vessels. The USCG also requires compliance with all Federal, State, and local laws, rules and regulations when the vessels are towed.

Compliance with the regulations since early FY 2006 has resulted in the Maritime Administration incurring significant additional costs associated with regulatory compliance through the use of mechanical hull cleaning methods to mitigate the potential risk of invasive species transfer for all ships prior to towing. This interim mitigation action, which was developed into hull cleaning best management practices by the Maritime Administration, was agreed to by the USCG while the Maritime Administration developed a programmatic plan for defining and reducing the risk of transferring non-native aquatic nuisance species. Because there is little science that defines the risks of transferring aquatic species by hull fouling from one specific geographic location to another, the Maritime Administration has been involved in research to identify potential invasive species on its vessels, risks related to various disposal alternatives, and possible mitigation measures appropriate to identified risks.

Because of enforcement decisions by the USCG, the Maritime Administration is faced with significant hull cleaning mitigation actions that have delayed the removal of ships from our fleet sites and added significantly to ship disposal costs in FY 2006. Mitigation and testing costs to date involving 22 ships has averaged approximately \$115,000 per ship for an estimated cost of \$2.4 million. The potential exists for even greater costs and disposal delays if research shows that the interim hull cleaning measures currently in effect do not sufficiently reduce the risk of invasive species transfer.

In August 2006, the State of California raised concerns that the scamping of hulls by the Maritime Administration prior to their tow released hazardous materials contained in some hull coatings into State waters, and that the practice was in possible violation of the Clean Water Act (CWA) and requires permitting by California State and/or regional Water Quality Control Boards (WQCB). The Maritime Administration is still engaged in discussions with the WQCB to determine whether the in-water hull cleaning activities are subject to additional regulatory requirements at the State or local level.

The situation set up a series of conflicting Federal and State laws and regulations with which the Maritime Administration must comply and placed the Maritime Administration in the position of negotiating with each State and local jurisdiction in order to transport vessels for

recycling. The Federal and State regulations related to hull cleaning requirements and control of discharges incidental to hull cleaning operations have added significant costs and delays to the ship recycling program mandated by Congress.

Precipitated by the concerns of California, the possibility of challenges to disposal activities from other States, the situation of confusing and frequently conflicting Federal and State environmental mandates, and constraints on ship disposal activities, and in order to avoid violating the many Federal, State, and local laws that now apply to these vessels due to the scamping requirement, on February 21, 2007, the Maritime Administrator issued a temporary suspension of any additional movement of non-retention vessels from the NDRF anchorages in California, Texas, and Virginia. The suspension is intended to remain in place until agreements have been attained with USCG, EPA, and State officials that sufficiently address the known and reasonably foreseeable issues that are currently impeding the movement and disposal of Maritime Administration obsolete ships, such as NISA and the CWA. Since the suspension of disposal activities, the Maritime Administration has consulted with the Department of Justice, USCG, the Navy, Office of Management and Budget, and the affected States, to determine which laws are applicable and identify potential legal jeopardy when the program resumes. The Maritime Administration has had to interface with multiple agencies in the affected States that have cognizance over invasive species and clean water issues in their waters.

States affected include California, Texas, and Virginia where the Maritime Administration's reserve fleets reside and pre-tow hull cleaning activities occur, and the States of Texas, Virginia, Maryland, and Louisiana where qualified recycling facilities are located. Since the suspension, the Maritime Administration has met with all the affected States to gain agreement from California, Texas, and Virginia to accept the in-water hull cleaning process utilized by the Maritime Administration in their waters, and agreement by Maryland, Virginia, Louisiana, and Texas to allow scamped vessels from other geographic locations into their State waters.

Currently the status of agreements with the five affected States is as follows:

- Virginia has agreed to allow ships to be scamped in the James River Reserve Fleet (JRRF), which is located in Virginia waters.
- Texas has agreed to allow ships into Brownsville, Texas for recycling from all sources if the ships hulls are cleaned before movement into State waters.
- Maryland has agreed to allow ships into its waters for recycling from all sources if the ships hulls are cleaned before movement into State waters.
- The State of Texas has agreed to allow ships from the Beaumont Reserve Fleet (BRF) to be towed to Brownsville without scamping; however, the USCG has indicated that vessels in the BRF (Beaumont, Texas) may pose a risk of introduction of invasive species if moved to Brownsville, Texas without scamping. Texas has not yet agreed to allow scamping in its waters at the BRF.
- Louisiana has not yet agreed to allow Maritime Administration vessels that originate in Virginia, Texas, or California into their waters.
- California has not agreed that the ships can be cleaned in its waters and has indicated such cleaning may constitute a violation of the CWA. The State has also indicated

that some level of containment of the scamping discharge may be required. The Maritime Administration will not resume the movement of any ships from the Suisan Bay Reserve Fleet (SBRF) anchorage until this conflict is resolved. Obtaining agreement from California is the going to be the most difficult. The Maritime Administration is currently working on scamping sampling and containment methods for a possible pilot project in the San Francisco Bay area in the near future. Additional significant costs and vessel removal delays are possible with the addition of significant requirements.

The Maritime Administration is now focusing on obtaining agreements from Texas to scamp ships in the BRF and from Maryland and Louisiana, the locations of two qualified recycling facilities, to allow ships from other geographic locations into their State waters.

Because of the agreements reached with the States of Virginia, Maryland, and Texas, the Maritime Administrator has partially lifted the disposal suspension to allow the disposal of JRRF ships at qualified facilities in those States only. Lifting the suspension to allow scamping and disposal of BRF and SBRF vessels, and the towing of scamped ships to recycling facilities in Louisiana, will come only after agreement has been reached with those States.

Because of the potential liability faced by the Maritime Administration as custodian of ships owned by other agencies that are moored at Maritime Administration fleet sites on a reimbursable basis, on March 9, 2007, the Maritime Administration notified the Navy, USCG, the National Oceanic and Atmospheric Administration (NOAA), and the Army Corps of Engineers (ACE) that their ships in the Maritime Administration's reimbursable custody would not be released until they had provided documentation showing that the local and State governments of the vessel's destination agree to accept the vessels from those agencies upon satisfaction of NISA requirements. The Maritime Administration authorized release of Navy ships on May 25, 2007.

### **AbleUK Contract for Foreign Recycling**

In FY 2003, the Maritime Administration awarded a contract to export 15 ships (including two vessels to be transferred in a vessel sales agreement) to a qualified facility in the United Kingdom (UK). With four of the ships already in the UK, the Sierra Club and the Basel Action Network sued alleging that the Maritime Administration and EPA had violated TSCA and other environmental statutes. A temporary restraining order was issued with respect to nine of the remaining vessels identified for dismantling in the AbleUK contract. (The four ships towed to the UK in 2003 and two post-1980 built (PCB-free) ships were not subject to the temporary restraining order.) Although this suit was dismissed, the Sierra Club has indicated to the Maritime Administration and EPA that there will be further litigation if the Maritime Administration attempts to export for disposal the remaining vessels. The legal challenge in the United Kingdom resulted in AbleUK being required to reapply for its local planning permissions/licenses and a Waste Management License for the facility upon gaining the local permissions. Approval would have allowed AbleUK to begin work in FY 2006 on

the four Maritime Administration ships at its facility, and make possible the export of the remaining ships under the contract in 2007.

AbleUK was expected to gain the required local permits in October 2006 with approval by the Hartlepool Borough Council (HBC); however, the October 2006 vote by the HBC resulted in the refusal to approve AbleUK's applications, which was contrary to the strong, nearly unanimous recommendation for approval by HBC's own planning review committee.

Since the October vote, the Maritime Administration has been in discussions with AbleUK and the UK Environment Agency (EA). Those discussions have resulted in a modification to the original contract that will limit the recycling of obsolete ships under the original contract to only the four ships currently in the UK plus the two unfinished oilers allowed under the original contract. The additional tonnage (approximately equivalent to nine ships) specified in the original contract has been disposed of in domestic facilities. The Maritime Administration will continue to explore the option of exporting obsolete ships to the UK for recycling. Since the Maritime Administration's discussions and consideration of actions related to the refused permit applications and the contract modification are both business proprietary and procurement sensitive, further details regarding the Maritime Administration's procurement considerations cannot be discussed in this Report. The Maritime Administration is available upon request to brief Members of Congress regarding the AbleUK contract.

### **Ship Disposal Funding**

There was no appropriation of funds for the disposal of ships in FY 2007. The program has been operating under a continuing resolution at FY 2006 funding levels, which included \$18 million for the disposal of obsolete ships and \$3 million for the continued decommissioning process for the nuclear reactor and hazardous materials on board the retention vessel NS SAVANNAH.

In spite of the suspension of disposal awards in FY 2007 due to the NISA issues through June 1, 2007, there have been contract awards for the disposal of 13 ships with the award of at least eight additional ships projected for the balance of FY 2007. With less emphasis by the Navy on conventional dismantling as a disposal method and an increase in the number of domestic contractors competing for the Maritime Administration's ships, the cost-per-ton disposal rate continued to trend lower throughout FY 2006 and FY 2007, resulting in the award and eventual disposal of more ships than anticipated and at a significantly lower cost-per-ton disposal rate than was projected.

In spite of awarding contracts for a number of vessels that exceeded the targeted goal there was a significant carryover of non-committed FY 2006 funds into FY 2007 in the amount of approximately \$15 million, which was reduced to \$9 million with several contract awards in the first quarter of FY 2007. The carryover amount is a result of robust domestic competition and continued strong international scrap steel prices, both of which resulted in a significantly lower cost-per-ton disposal rate for FY 2006 awards. Fiscal Year 2007 cost-per-ton calculations included the sale of five ships for recycling. The funding carry-over will allow



the Maritime Administration to award contracts for additional obsolete ships in FY 2007 and into 2008. A major benefit of the carry-over is that the additional disposal awards into FY 2007 will level out the flow of dismantling work to the industry and thereby allow the industry to keep a level work force employed throughout the year. An additional benefit of the carryover is that funding was available for the unanticipated and unbudgeted costs associated with NISA requirements to clean vessel hulls of aquatic growth prior to towing.

### **Ship Disposal Contracts**

Utilizing the Federal Acquisition Regulation (FAR) Test Program for Certain Commercial Items, the Maritime Administration implemented in January 2005 the use of Standing Quotations as the primary procurement method for soliciting ship disposal services. The use of Standing Quotations is a simplified acquisition procedure for the competitive procurement of commercial ship dismantling/recycling services. The Standing Quotation process allows interested vendors to submit quotations and proposals on a continuous basis. Since it is not possible to predict which vessels may have a positive recycling value to contractors (offerors), the Standing Quotation process includes a solicitation for both sales (purchase) offers and fee-for-service offers. Those ships not receiving purchase bids are considered for fee-for-service contracts. Proposals are evaluated and those offers determined to be technically acceptable from the pool of standing quotations are considered for award. Based on the evaluation criteria posted in the Request for Quotation, contracts are then awarded for the offers that represent the best value to the Federal Government.

### **Transfer of Ships to the Navy for Disposal**

The National Defense Authorization Act for Fiscal Year 2006, P.L. 109-163, Section 3505(b); 119 Stat. 3552 (2006) required the Maritime Administration to transfer at least four obsolete ships to the Navy for disposal through its vessel disposal program. A similar requirement to transfer an additional three ships to the Navy in FY 2007 appears in the John Warner National Defense Authorization Act for Fiscal Year 2007, P.L. 109-364, Section 35040; 120 Stat. 2517 (2006).

The Maritime Administration and the Navy have utilized their 2003 Memorandum of Agreement to transfer vessels to the Navy for use in the Navy fleet training exercises, which result in sinking and are commonly known as SINKEX. The Maritime Administration has approved the transfer of 10 vessels to the Navy under the program and believes that funding each of these transfers is in the best financial interest of the United States. Nine vessels have been transferred to the Navy for use in the Navy Fleet training exercises and one vessel has been transferred to be recycled under the existing Navy recycling contract. Thus far, one vessel (the MAUNA KEA) has been sunk and one (MISSISSINEWA) is in the process of being recycled under a Navy recycling contract.

Prior to passage of the 2006 Department of Defense Authorization Act, the Maritime Administration informed the House Armed Services Committee staff that a transfer of vessels to the Navy for use of Navy's existing recycling contracts provided little economic or convenience advantage to the Maritime Administration. Since the Maritime Administration

has more qualified recycling facilities than the Navy, and the two Navy facilities are also Maritime Administration qualified facilities, the use of the Navy's recycling contracts offered the Maritime Administration no additional recycling capacity or competition.

A number of ships were identified by the Maritime Administration to the Navy in 2006 for disposal via the Navy's recycling program. Upon receipt of the quotations of the cost of these services, the Maritime Administration was able to approve one vessel for such disposal. Determinations and findings made pursuant to the Economy Act, which were required under the terms of the Department of Defense Authorization Acts of 2006 and 2007, showed that this one vessel was economically comparable to previous ships awarded by the Maritime Administration and could be disposed of more conveniently through the Navy's program, principally because of the Navy's oversight of the recycling project. With respect to the other vessels offered to the Navy for disposal, given the prices received from the Navy, the Maritime Administration was unable to make the required Economy Act findings that it was more economical to use the Navy's contractual recycling program than to use the Maritime Administration's current contractual program.

### **Comprehensive Management Plan**

The FY 2006 Authorization of Appropriations, Title XXXV, Maritime Administration, P.L. 109-153, Section 3505(a), 119 Stat. 3551 (2006) contained a requirement for the Maritime Administration to develop a Comprehensive Management Plan (CMP) for the disposal of its obsolete ships. The CMP was developed, implemented, and delivered to the Congress in July 2006. The plan addressed the Program's strategy, performance measures, funding, and decision-making framework for ship disposal in addition to identifying external factors that could affect execution of the plan.

The Maritime Administration's disposal strategy, as discussed in the CMP, continues to be an integrated plan that includes critical elements that are considered for both the long-term disposal strategy and short-term disposal decisions. Elements that affect the cost and disposal rate of the Maritime Administration's obsolete ships include:

- Capability, capacity, and effectiveness of the various disposal options to cost-effectively expedite the disposal of ships.
- Domestic and international scrap steel markets.
- Disposal alternatives available to the Program.
- Non-retention vessel condition and location.
- Availability of non-retention ships to the Program for disposal.
- Suitability of vessels for various disposal options.
- Timing, level, and availability of funding.
- Environmental threat posed by specific vessels.
- Ship-specific proposals received by the industry.
- Demand for ships to be artificially reefed, purchased, and used in the Navy's Fleet training exercises.

The Program's emphasis continues to be the expedited disposal of obsolete ships presenting the greatest environmental risk. Reutilization and disposal alternatives such as artificial reefing, donation, use in the Navy fleet training exercises, and sales are less effective because the best candidates for those disposal options are generally vessels that are cleaner and in better condition. We believe the Maritime Administration's responsibility in this area is first and foremost the mitigation of environmental threats posed by older, deteriorated hulls that contain residual oil. While the Maritime Administration's disposal strategy continues to focus on dismantling/recycling as the most expeditious option currently available, all disposal options are continuously being evaluated.

Through the use of full and open competition, the Maritime Administration continues to utilize all feasible disposal options available to achieve an environmentally acceptable end state. Maritime Administration goals contained in the Comprehensive Management Plan include:

- To eliminate the backlog of high priority vessels accumulated in the 1990s. This has nearly been accomplished with only three high priority vessels not under contract for disposal remaining in the Maritime Administration's three fleet sites.
- To remove from the fleet sites all "high" and "moderate" priority ships at a rate of 20-24 ships per year. Elimination of the remaining three high and 18 moderate priority ships not currently under contract for disposal also mitigates the greatest risks to the environment at the Maritime Administration's fleets. The number of vessels removed by each disposal alternative will depend on and be determined by the industry proposals/pricing, funding availability, suitability of each ship for the disposal methods available/proposed, the outcome of the foreign recycling legal challenges, the availability of obsolete ships for disposal (i.e., not on hold for historical assessment or for donation), and other factors.
- To maintain only "low" priority/low-risk ships at the fleet sites. The long-range target number of low priority obsolete vessels to be maintained on an annual basis is a total of 50-70 at all three fleet sites. With the projected addition of 8-10 Maritime Administration and Department of Defense non-retention ships per year, an annual reduction rate of 20-24 ships will have to be maintained for 2-3 years beyond 2008 in order to achieve and maintain an obsolete vessel fleet size at a maximum range of 50-70 ships.
- To have level annual funding that permits the "end state" near-term annual disposal rate of 20-24 ships and then a level of funding in the out years that permits the disposal of at least the number of ships that are designated as obsolete on an annual basis. A failure to achieve an adequate level of funding and to maintain all disposal options will result in an accumulation of obsolete vessels, as occurred in the 1990s.

Critical factors that impact the achievement of a realistic and environmentally responsible disposal "end state" include:

- Foreign recycling becoming a viable disposal option in 2008 and beyond in particular for the recycling of West Coast vessels that currently must be towed 5000+ miles to be recycled domestically.
- The Ship Disposal Program funding at levels in 2008 and beyond that allow consideration of proposals that include economies of scale.
- Designation of a majority of vessels as obsolete in the future that are in “fair” or “good” condition (i.e., low priority vessels with hull conditions of #4 & #5).

### **Performance Measures**

The Program’s performance measures of vessels awarded, vessels removed, and vessels disposed of are the best and most direct measure of progress in disposing obsolete ships and meeting the Department’s environmental stewardship targets. The performance measures to reduce non-retention ships inventory include recycling, artificial reefing, sales, donations, and use in the Navy’s fleet training exercises. Performance measure projections are based on variable factors including, but not limited to, the following:

- Timing of annual appropriations
- Feasibility of disposal methods available to the Program
- Legal challenges to Program initiatives
- The competitiveness, capability, capacity, production throughput, and performance of the disposal industry and individual contractors
- The costs of aquatic nuisance species sampling, assessment, and threat mitigation
- The costs of environmental remediation of hazmat streams present on the obsolete ships
- The market price of recyclable steel

Meeting future performance targets is subject to the same variables. Negative trends in any one or a combination of those variables can significantly affect the attainability of the performance targets. The targets for each year are established during the annual budget request process a year and a half prior to the specified budget year.

The three performance measures listed below are the major milestones of the ship disposal cycle. The annual cost-per-ton measure is indicative of the Program’s efficiency even though variables that can significantly affect that particular measure, such as the market price of recyclable steel, are beyond the Program’s control. The following tables include target and actual results through June 1, 2007 and the targets for FY 2008.

In addition, the difference ( $\Delta$ ) between the targets and actual results for vessel awards, removals and disposals over the last six years shows that the goals have been exceeded over the long term in spite of annual goals not being met on a few occasions. The positive differential ( $\Delta$ ) between the targets and actuals is indicative of the Program’s overall progress and effectiveness.

Number of contract awards for the removal of obsolete vessels from the National Defense Reserve Fleet sites for subsequent disposal.

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>Totals (thru 2006)</u>
<b>Target:</b>	3	3	11	14	15	13	13	12	59
<b>Actual:</b>	6	2	24	13	20	22	13*		87 ( $\Delta$ +28)

Number of obsolete vessels removed from the National Defense Reserve Fleet sites for subsequent disposal.

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>Totals (thru 2006)</u>
<b>Target:</b>	3	3	4	4	15	13	13	16	42
<b>Actual:</b>	6	6	2	15	18	25	15*		72 ( $\Delta$ +30)

Number of obsolete vessels disposed of (i.e. disposal action completed) from the National Defense Reserve Fleet sites.

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>Totals (thru 2006)</u>
<b>Target:</b>	3	3	4	4	15	15	15	16	44
<b>Actual:</b>	4	9	3	6	13	20	9*		55 ( $\Delta$ +11)

\* Actual through June 1, 2007

The following table shows the disposal achievements for FY 2007 through June 1, 2007. Based on Program actions to date, it is anticipated that the FY 2007 award, removal, and disposal goals will also be exceeded.

<b>FY 2007 Maritime Administration Ship Disposal Goals/Progress (through June 1, 2007)</b>			
	<u>Goal</u>	<u>Actual</u>	<u>Variance</u>
Ships Awarded Disposal Contracts	13	13	0
Ships Removed from MARAD Fleets	13	15	+2
Ships Disposed (Disposal Completed)	15	10	-5

The table below is a breakdown by Fiscal Year indicating the average cost-per-ton for disposal actions for Fiscal Years 2001 through 2008 based on the value of contract awards. The figure for Fiscal Year 2008 is a projection. Disposal actions include vessel sales, legislated sales, legislated donations, artificial reefing, deep-sinking, and dismantlement services contracts. The actual cost-per-ton figures for FY 2005 and 2006 includes SBRF vessels that were awarded to facilities in Texas because of a lack of qualified West Coast facilities. The cost-per-ton of those vessels elevated the overall cost-per-ton average for FY 2005 and FY 2006, with costs associated with West Coast vessel awards ranging \$0.4 to \$0.8 million higher than JRRF or BRF vessels.

The award of West Coast ships to Texas facilities includes a significant cost premium for the 5000+ mile tow, which includes a transit of the Panama Canal. As a point of comparison, the tow distance from the SBRF in California to Texas significantly exceeds the 3000+ nautical mile distance from the JRRF to the AbleUK facility in the UK. Notwithstanding the premium paid to dispose of the SBRF ships domestically, the overall Program cost-per-ton

has decreased from FY 2004 to 2007. This cost decrease during this period is a result of rising scrap market steel prices and strong domestic competition that did not exist prior to 2004. The disposal cost per ton for the 13 vessels awarded through June 1, 2007 is \$60, which includes the sale of six vessels. Final FY 2007 costs per ton are anticipated to be comparable to FY 2006. The figures include all costs associated with vessel tow preparations, towing, NISA compliance, hazardous material remediation, and disposal.

<b>Annual Program Cost/Ton</b>								
<b>Based on Disposal Actions Awarded in the Fiscal Year</b>								
	<b>FY '01</b>	<b>FY '02</b>	<b>FY '03</b>	<b>FY '04</b>	<b>FY '05</b>	<b>FY '06</b>	<b>*FY '07</b>	<b>FY '08</b>
<b>Number of Ships</b>	6	2	15	13	20	21	13*	13
<b>Target Avg. Cost/Ton</b>	(\$250)	(\$250)	(\$200)	(\$150)	(\$175)	(\$200)	(\$200)	(\$170)
<b>Actual Cost/Ton</b>	(\$253)	(\$127)	(\$188)	(\$106)	(\$106)	(\$83)	(\$60)*	

\* Actual through June 1, 2007

### **Program Progress in FY 2007**

The program tracks three performance measures for the disposal of each vessel. These performance measures are vessels awarded, vessels removed from the fleets, and vessels disposed. The three performance measurements are not confined to a specific time frame or Fiscal Year. Often ship disposal projects can span one, two, or even three years. Table 1 indicates the date (bolded) for which one, two, or all three performance measures occurred thus far in FY 2007. Program actions resulting in measurable performance on dozens of ships in a single year represent significant progress in the disposal of obsolete ships and the mitigation of any environmental risks presented by those ships. All FY 2007 contracts awarded through June 1, 2007, have been to domestic recycling facilities or to the Navy for fleet training exercises with the exception of three vessels sold in Japan for re-use.

From the start of FY 2001 through June 1, 2007, the Maritime Administration has awarded contracts for the disposal of 90 obsolete ships, removed 87 ships from its fleet sites, and completed disposal action on 65 vessels. While currently there are 114 non-retention ships in the fleets not under contract and awaiting disposal, this figure includes 94 retention ships that have been downgraded since 2001 and added to the disposal queue.

The Maritime Administration's accomplishments in FY 2006 and FY 2007 were a result of executing its CMP to continue the removal of the highest priority ships in all three reserve fleet sites. With award of the vessels shown in Table 1, only three high priority ships remain in the Maritime Administration's three fleet sites. Two of the three have recently become available for disposal. Previously they were being held for donation to non-profit organizations or being assessed for historical significance. The two available vessels are included in a current solicitation for recycling. Of the three remaining high priority vessels, two are located in the JRRF in Virginia and one is located in the SBRF in California. As the

high priority vessels become available for disposal they will be given priority for disposal; however, in the meantime the Maritime Administration's comprehensive plan is focused on the 17 moderate priority vessels that are not yet under contract for disposal, which includes 12 moored in the SBRF, two in the BRF, and the three moored in the JRRF. The Maritime Administration's plan is to expedite the disposal of these ships to mitigate any potential for increased risk to the environment.

**Table 1: Maritime Administration FY 2007 Disposal Actions**  
**(Bolded dates indicate FY 2007 disposal actions)**

Ship	Fleet	Contractor	Site	Vessel Award	Vessel Removal	Vessel Disposal	Final Amount (\$)
PAWCATUCK	JRRF	Bay Bridge Enterprise	VA	8/26/05	10/19/05	<b>10/7/06</b>	(\$569,373)
<b>MONTICELLO</b>	SBRF	Navy fleet exercise**	CA	9/9/05	TBD	TBD	(\$915,548)
<b>PYRO</b>	SBRF	Navy fleet exercise**	CA	9/9/05	TBD	TBD	(\$754,549)
MAGALLANES	BRF	All Star Metals, Inc.	TX	11/14/05	1/6/06	<b>10/13/06</b>	\$25,286
POINT LOMA	SBRF	Marine Metals, Inc.	TX	12/15/05	2/14/06	<b>10/27/06</b>	(\$897,792)
FLORENCE	SBRF	All Star Metals, Inc.	TX	12/28/05	2/15/06	<b>1/10/07</b>	(\$996,992)
GILMORE	JRRF	Bay Bridge Enterprises	VA	2/10/06	3/30/06	In Progress	(\$742,675)
PRIVATE MURPHY	BRF	Esco Marine, Inc.	TX	2/23/06	4/11/06	<b>2/19/07</b>	\$5,550
BEAUJOLAIS	BRF	Esco Marine, Inc.	TX	3/14/06	4/27/06	<b>12/15/06</b>	(\$1,047,137)
ALLISON LYKES	BRF	S. Scrap Material Co.	LA	5/30/06	7/8/06	In Progress	\$50,000
MALLORY LYKES	BRF	S. Scrap Material Co.	LA	5/30/06	7/1/06	In Progress	\$50,000
PRIDE II	BRF	All Star Metals, Inc.	TX	6/2/06	8/8/06	In Progress	(\$576,476)
SAUGATUCK	JRRF	Bay Bridge Enterprises	VA	6/2/06	7/18/06	In Progress	(\$549,999)
BRINTON LYKES	BRF	Marine Metals, Inc.	TX	6/2/06	7/13/06	<b>5/23/07</b>	(\$555,212)
ORION	JRRF	N. Amer. Ship Recycling	MD	6/2/06	7/27/06	In Progress	(\$734,230)
HANNIBAL VICTORY	SBRF	Marine Metals, Inc.	TX	6/2/06	8/8/06	In Progress	(\$978,698)
BARNARD VICTORY	SBRF	All Star Metals, Inc.	TX	6/2/06	7/10/06	<b>4/17/07</b>	(\$1,376,699)
OCCIDENTAL V.	SBRF	All Star Metals, Inc.	TX	6/2/06	<b>10/5/06</b>	In Progress	(\$1,191,987)
SIOUX FALLS V.	SBRF	Marine Metals, Inc.	TX	6/2/06	8/2/06	In Progress	(\$978,698)
<b>FLORIKAN</b>	SBRF	Navy fleet exercise**	CA	9/8/06	TBD	TBD	(\$396,984)
<b>CLAMP</b>	SBRF	Navy fleet exercise**	CA	9/8/06	TBD	TBD	(\$363,484)
<b>RECLAIMER</b>	SBRF	Navy fleet exercise**	CA	9/8/06	TBD	TBD	(\$363,484)
MISSISSINEWA	JRRF	Navy IDIQ (ISL)**	TX	9/19/06	<b>1/30/07</b>	In Progress	(\$.02)
TEXAS CLIPPER I	BRF	State of Texas (ESCO)	TX	<b>10/3/06</b>	<b>11/3/06</b>	In Progress	(\$1,500,000)
MAUMEE	BRF	Esco Marine, Inc.	TX	<b>11/3/06</b>	<b>1/23/07</b>	In Progress	(\$405,726)
VULCAN	JRRF	Bay Bridge Enterprise	VA	<b>11/3/06</b>	<b>12/19/06</b>	In Progress	(\$494,000)
MARYLAND	BRF	Esco Marine, Inc.	TX	<b>11/3/06</b>	<b>2/1/07</b>	In Progress	(\$400,000)
JASON	SBRF	Marine Metals, Inc.	TX	<b>11/9/06</b>	<b>1/15/07</b>	In Progress	(\$1,426,035)
QUEENS VICTORY	SBRF	Esco Marine, Inc.	TX	<b>11/9/06</b>	<b>12/31/06</b>	In Progress	(1,180,000)
LEXINGTON	BRF	S. Scrap Material Co.	LA	<b>11/14/06</b>	<b>1/10/07</b>	In Progress	\$1
NODAWAY	Japan	(Re-use Sale)	Japan	<b>12/15/06</b>	<b>12/15/06</b>	<b>12/15/06</b>	\$308,333
ALATNA	Japan	(Re-use Sale)	Japan	<b>12/15/06</b>	<b>12/15/06</b>	<b>12/15/06</b>	\$308,333
CHATTAHOOCHEE	Japan	(Re-use Sale)	Japan	<b>12/15/06</b>	<b>12/15/06</b>	<b>12/15/06</b>	\$308,333
PENN. TRADER	BRF	S. Scrap Material Co.	LA	<b>1/5/07</b>	<b>1/30/07</b>	In Progress	\$1
HUNLEY	JRRF	S. Scrap Material Co.	LA	<b>1/5/07</b>	<b>3/7/07</b>	In Progress	\$1,500
VANDENBERG	JRRF	State of FL (Colonna's)	FL	<b>1/26/07</b>	<b>3/30/07</b>	TBD	(\$1,250,000)
CAPE CLEAR	JRRF	Award Pending		TBD	TBD	TBD	TBD
STATE	JRRF	Award Pending		TBD	TBD	TBD	TBD
<b>HOIST</b>	JRRF	Award Pending		TBD	TBD	TBD	TBD
LAKE	JRRF	Bid Requested		TBD	TBD	TBD	TBD
<b>NEREUS</b>	SBRF	Navy fleet exercise**	CA	Pending	TBD	TBD	TBD
<b>POINT DEFLANT</b>	SBRF	Navy fleet exercise**	CA	Pending	TBD	TBD	TBD
<b>THOMASTON</b>	SBRF	Navy fleet exercise**	CA	Pending	TBD	TBD	TBD
CAPE CHARLES	JRRF	Bid Requested		TBD	TBD	TBD	TBD
SPHINX	JRRF	Bid Requested		TBD	TBD	TBD	TBD
SCAN	JRRF	Bid Requested		TBD	TBD	TBD	TBD
SOUTHERN CROSS	JRRF	Bid Requested		TBD	TBD	TBD	TBD
PRIDE	JRRF	Bid Requested		TBD	TBD	TBD	TBD



(Continued from previous page)

\*\*Vessels identified to the Navy Inactive Ships Program Office per FY 2006 &amp; 2007 Nat'l Defense Authorization Act transfer requirement

Ship	Fleet	Contractor	Site	Vessel Award	Vessel Removal	Vessel Disposal	Final Amount (\$)
DUTTON	BRF	To Be Resolicited		TBD	TBD	TBD	TBD
MISSION SANT YNEZ	SBRF	To Be Resolicited		Not Awarded	TBD	TBD	TBD
GETTYSBURG	SBRF	To Be Resolicited		Not Awarded	TBD	TBD	TBD
MAINE	BRF	To Be Resolicited		Not Awarded	TBD	TBD	TBD
AMERICAN EXPLORER	BRF	To Be Resolicited		Not Awarded	TBD	TBD	TBD
EARLHAM VICTORY	SBRF	To Be Resolicited		Not Awarded	TBD	TBD	TBD
RIDER VICTORY	SBRF	To Be Resolicited		Not Awarded	TBD	TBD	TBD

**Bolded dates indicates disposal actions completed in FY 2007****Awards/departure affected by ship disposal suspension related to compliance issues with Nat'l Invasive Species**

The award/removal of the highlighted vessels in the table above have been impacted as a result of the disposal suspension imposed pending resolution of conflicting Federal and State environmental mandates and regulations related to NISA and the CWA.

The Maritime Administration is working to identify cost-effective, qualified facilities on the U.S. West Coast and in foreign markets that are interested in recycling the obsolete vessels located in the SBRF. A few foreign facilities have submitted cost-effective proposals for disposal of a large number of ships. The Maritime Administration's challenge, in cooperation with the EPA, is to ensure that the facilities have the capability of dismantling ships in a manner that protects the environment, worker safety, and health. The Maritime Administration's ability to award future contracts to foreign facilities may be contingent on its ability to obtain a relaxation of the restrictive nature of environmental regulations that have precluded vessel export, which currently require a lengthy EPA formal rulemaking process in order to acquire an exemption to allow the export of PCBs. There are currently no operational U.S. West Coast facilities dedicated to vessel dismantling/recycling available to the Navy or the Maritime Administration. The absence of both a foreign recycling outlet and West Coast recycling facility will continue to have a significant effect on the cost of disposing of the SBRF vessels.

The Maritime Administration has pre-qualified a West Coast contractor that would establish a dismantling facility in Vallejo, California if awarded a contract. However, in the past this company has submitted higher bid prices than Brownsville, Texas, companies, even with the significant cost differential advantage associated with the Brownsville companies towing the ships from the West Coast through the Panama Canal. Thus, the cost of dismantling ships located at the SBRF is inherently more expensive to recycle domestically than ships located at either the JRRF or BRF. The Maritime Administration has mitigated this impact to some extent by arranging with the Navy to environmentally prepare ships from Suisun Bay, on a reimbursable basis, for use in the Navy fleet training exercises. The Navy then works with the active Navy fleet to use the ships as targets during fleet exercises and removes the ships via tow.

## Ship Disposal Alternatives

Domestic Recycling and Contractor Performance – The current high value of scrap metals among other factors is reducing the per ton domestic recycling costs, allowing the Maritime Administration to contract for additional ships for dismantling. To date, domestic recycling is the most expedient method of disposal alternative compared to transfer of ships for use in Navy sink exercises, artificial reefing, or ship donation. With the increase of scrap metal commodity prices, the Maritime Administration has seen an increase in the number of domestic companies it has pre-qualified for dismantling services since 2004. In FY 2001, the Maritime Administration contracts involved only three domestic companies. Since then four additional domestic companies have been awarded ship dismantling contracts; two of those companies are located on the East Coast. To date, the eighth facility located in California has not been competitive from a best-value standpoint. The Maritime Administration is encouraging increased domestic competition to increase cost-effective and productive capacity.

In light of the export constraints, and continuing challenges associated with alternative disposal methods, the rate of disposal is highly dependent on the availability of a consistent budget and cost-effective domestic facilities. Industrial capacity, in terms of annual ship disposal rates, is difficult to quantify because of several factors including the variance in vessel condition and the scope of hazardous material remediation that is necessary on each vessel. However, due to capacity and resource limitations, the seven domestic facilities that have been awarded contracts over the past few years have demonstrated a potential cost effective capability to dismantle and recycle up to a total of 20 to 25 vessels per year, which includes the Maritime Administration, the Navy, and commercial work. Further, even at award rates that are lower than the industry's potential capacity, the limitations of many domestic facilities often result in significant delays after contract award before the contractor removes the vessels from the fleets and commences dismantling work. This is particularly true when multiple ships are awarded at the same time to the same facility. It is also not uncommon for domestic facilities to request significant schedule extensions for completing the work beyond the original contract performance period, only a portion of which can be defined as excusable delays. Over the past 2 years, the majority of the Maritime Administration's qualified domestic facilities have had significant production throughput problems, significantly delaying completion of recycling projects awarded by the Maritime Administration. Without increases in trained workforce resources to improve production throughput, an improvement in domestic capacity is not likely in the future.

While timely performance of many of the contractors in the limited domestic ship disposal industry is at times a challenge to the Program, it had been considered manageable because of the direct, hands-on project/contract management and on-site facility oversight applied by the Maritime Administration. However, an area of concern is the additional pressure that may be on domestic industrial capacity as a result of the number of ship disposal awards made by the Maritime Administration and Navy disposal programs. However, this may be of a lesser concern as the Navy expects to decrease the number of recycled ships due to decreasing inventory. The Navy's program currently awards recycling contracts to only two domestic facilities, which is sufficient for its projected reduction of annual dismantling to

four or five ships per year. The two Navy contractors are also qualified contractors under the Maritime's program and are considered the two domestic facilities with the greatest current capacity. One of the two contractors has several on-going Maritime Administration disposal contracts in addition to Navy work and the other currently has only Navy recycling projects. The combined effect of the Navy and Maritime Administration awards to these two contractors has the potential to exceed the capacity for FY 2008 barring some unforeseen increase by those facilities in resources and production throughput. In fact, because of the backlog of work, one of the two contractors has not been active in pursuing Maritime Administration ships for most of FY 2007 and has indicated to the Maritime Administration that it may not be able to respond to the Maritime Administration's solicitations for the majority of FY 2007.

While the Maritime Administration has aggressively pursued the participation of domestic facilities in the recycling of the Maritime Administration ships, and is encouraged with the increase from three to eight in the number of qualified facilities since 2003, there is a note of caution moving forward because of the sharing of limited industrial facilities between the Maritime Administration and the Navy. The capacity, resources, and management of domestic contractors will be tested in light of the significant number of disposal awards scheduled for completion in FY 2007, and in light of the number of vessel awards anticipated for the balance of FY 2007 and 2008 by both Programs. Exaggerated capacity claims by the domestic industry in the past, which have not materialized, will also be tested. Increasing schedule overruns by dismantling contractors are anticipated to continue in FY 2007 and 2008 as the limits of domestic capacity and capability are exceeded.

Foreign Recycling - Based upon proposals received and an investigation of facilities abroad, the Maritime Administration continues to believe that environmentally sound facilities exist abroad that offer the United States very competitive prices for the disposal of Maritime Administration's obsolete vessels. Foreign options could provide the additional capacity and competition necessary to accelerate the disposal of the Maritime Administration's 114 obsolete ships and mitigation of the environmental threat they present. However, due to the 40 C.F.R. Part 761 prohibitions on the export of regulated PCBs in common shipboard materials that most often cannot cost-effectively be removed without physically dismantling the ship, the Maritime Administration has been unable to successfully recycle any vessels abroad due to legal challenges and regulatory constraints. In spite of the difficulties involved, the best value contract award in 2003 to a qualified UK facility, and recently renegotiated, may still be feasible if the company is successful in obtaining the necessary operating and environmental permits. The four vessels exported as part of the original contract are unable to be dismantled until the UK legal issues are resolved and all required permits are in place.

The Maritime Administration has renegotiated the contract to include only the four ships in the UK plus the two unfinished oilers. The other nine ships included in the original contract have not been included in the recently renegotiated contract.

The Maritime Administration has put a hold on accepting new proposals for foreign recycling; however, the foreign proposals previously submitted are being evaluated. The

Maritime Administration is currently in the iterative process of evaluating foreign recycling proposals involving two countries other than the UK.

Artificial Reefing - Reefing has potential that is currently constrained by limited demand for ships by the coastal States. The limited demand is a result of a general reluctance of States to be responsible for the preparation, tow, and sinking of the ships, and to share in the significant costs associated with reefing activities. In FY 2006 the Maritime Administration was granted a legislative change that provides the flexibility to determine the time and place of vessel transfer to a coastal State. This change will allow the Maritime Administration to take an active role and share more responsibilities for preparing a ship for reefing, if it is determined to be in the best interest of the government. Cost sharing with the States also has the potential to increase demand to some degree. The Maritime Administration has the authority to provide financial assistance to the States and will consider such requests if they are comparable to the costs of other feasible disposal methods. However, the Maritime Administration will consider providing significant financial assistance to States only for vessels considered to be a higher priority. Unfortunately, the fact remains that higher priority ships, generally, are not good reefing candidates.

Best Management Practices (BMP) for the preparation of ships to be used as artificial reefs have been developed through the interagency efforts of the Maritime Administration, EPA, Navy, National Oceanic and Atmospheric Administration (NOAA), USCG, ACE, and National Marine Fisheries Service (NMFS). The BMPs were implemented in FY 2006 and will provide consistent vessel preparation guidance nationwide. However, the requirements in the BMPs to remove all solid PCBs above the regulated limits or apply for a risk-based approval to dispose of PCBs in a marine environment for purposes of creating an artificial reef could negate potential cost advantages of artificial reefing compared to conventional dismantling.

The vessels TEXAS CLIPPER I and VANDENBERG have been transferred to the States of Texas and Florida, respectively, for reefing preparations. In addition, the Maritime Administration currently has one additional ship in the approval process for use as an artificial reef in the Cayman Islands.

Vessel Sales - This is a low-revenue to no-cost option to the Government for selected vessels. Prior to 2006 the sale of vessels was not a significant disposal option in terms of numbers of ships. In FY 2006 the increase in domestic vessel purchases was a result of the increased market price of steel and “sales of opportunity” for the companies purchasing the vessels. In spite of the sale of five vessels in FY 2006 and six additional vessels through June 1, 2007, it is not likely that the sale of obsolete ships is a trend that can be relied upon for a significant number of disposals on an annual basis. The six vessels sold thus far in FY 2007 include the sale for re-use of three obsolete vessels deployed in Japan that were recently downgraded and that would have otherwise been returned to the U.S. for disposal at significant expense.

It is not surprising that, given the large demand for scrap metal on the international markets, the Maritime Administration continues to receive numerous inquiries for the sale of its obsolete vessels to foreign ship recyclers. However, because of the restrictions that TSCA

imposes on the export of Maritime Administration ships that contain regulated PCB's, foreign sales for recycling currently are not commercially practicable in the present legal environment, even to environmentally sound facilities.

Vessel Donation - Donation of vessels is based on the demand of non-profit historical preservationist and humanitarian groups. Historically, donation has not been a significant disposal option in terms of numbers of vessels; however, the Maritime Administration has established a formal donation program to support the efforts of legitimate not-for-profit groups to acquire and preserve vessels. The formal program is intended to replace the previous practice where organizations obtained special legislation for the donation of ships. The authorization for the formal program is contained in Section 3512 of Pub. L. 108-136, The National Defense Authorization Act for Fiscal Year 2004.

Navy Fleet Training Exercise - This Joint Navy and Maritime Administration project meets the Fleet requirement for target vessels in Navy at-sea live-fire training exercises. Deep-sinking is a low-volume option with costs comparable to artificial reefing. Vessels are prepared for sinking by the Navy in accordance with procedures that protect the environment as set in 40 CFR 229.2. The Maritime Administration and the Navy executed a Memorandum of Agreement on September 5, 2003, for using the Maritime Administration ships through the Navy's program. Pursuant to this agreement, the vessel GAGE has been prepared by the Navy; however, the sinking of this vessel has been postponed due to recent donation interest in the vessel. Three ships were prepared for the Navy fleet training exercise in FY 2005 and one was sunk. Four ships were also approved by the Maritime Administration for the Navy fleet training exercise in FY 2006 and are awaiting preparations by the Navy and an additional three vessels will be approved for the Navy fleet training exercise in FY 2007. The feasibility of the Navy fleet training exercise as a future disposal option will depend on cost estimates from the Navy that are comparable in cost to the Maritime Administration's other disposal alternatives. A sink exercise disposal rate of two to three ships per year at this point is considered possible.

## **Conclusions**

This Report outlines the significant legal challenges and domestic industry opposition to the export of obsolete ships by the Maritime Administration. Nonetheless, an aggressive program of maximizing the use of disposal funding and pursuing all feasible disposal options resulted in the award of 67 contracts to dispose of a obsolete vessels in the last 3½ years. Those awards and the subsequent removal of vessels from the fleet sites reversed a trend in the growth of the number of obsolete ships in the Maritime Administration's custody.

The progress and momentum gained since FY 2003 needs to be sustained to achieve the goals identified by the Administration and Congress. The award and removal of the majority of the Maritime Administration's high priority ships since the start of the Program in 2001 have significantly mitigated the threat of residual oil discharge into the environment. Section 3502 of the National Maritime Heritage Act (P.L. 106-398, signed October 30, 2000), which extended the Congressional disposal mandate to September 30, 2006, also listed 39 obsolete ships that posed the most immediate threat to the environment. Of the 39 ships identified in

2000 as high priority, only one ship has not yet been removed from the Maritime Administration's fleets. That ship will be removed from the SBRF as soon as the disposal suspension has been lifted for obsolete Maritime Administration ships in California.

These successes notwithstanding, the statutory disposal deadline of September 30, 2006, for disposal of all the Maritime Administration's obsolete ships, was not met. However, as the Maritime Administration first reported to the Congress in 2002, it was unlikely that the Maritime Administration would be able to dispose of the more than 120 obsolete ships by the deadline, due to external impediments that did not allow access to all cost-effective disposal methods and the lack of sufficient domestic competitive ship disposal capacity. Those constraints still exist today, despite the increase from three to eight qualified domestic disposal facilities. Moreover, the legal challenges to vessel export that the Maritime Administration encountered in 2003 on the AbleUK disposal contract have effectively negated as a ship disposal option the export of vessels containing solid PCBs. In addition, the lengthy TSCA formal rulemaking process has significantly delayed near-term prospects for foreign contract awards based on cost-effective export proposals previously submitted to the Maritime Administration.

Regardless of the ultimate outcome of the AbleUK contract, it has become clear to the Maritime Administration that, under existing environmental laws and regulations, the export of ships for recycling is currently not a practicable method of disposal for the Maritime Administration or for recycling companies interested in foreign recycling. The future export of vessels under the regulatory scheme established by TSCA can be accomplished only through an exemption to TSCA provided in a rulemaking by the EPA. However, the legal and practical requirements for a TSCA exemption rulemaking can easily take one to two years. The TSCA exemption rulemaking process is not workable within the framework of a Federal procurement action with a commercial facility. Thus, it is evident that the legislative requirement to select disposal facilities on a "best value" basis without predisposition towards foreign or domestic facilities is a practical impossibility.

Given the legal requirements imposed by TSCA that must be met before any foreign vessel disposal can take place, the Maritime Administration is restricted to essentially using domestic recycling facilities as the only option for expedited disposal. A favorable March 2, 2005, ruling by the U.S. District Court for the District of Columbia did not provide the Maritime Administration with relief from the requirements of TSCA. While the Court concluded the EA prepared by the Maritime Administration fully met its obligations under the National Environmental Protection Act (NEPA) and dismissed the plaintiff's complaint, the court's ruling does not remedy the underlying environmental issues under TSCA that triggered the legal action initially, and does not preclude plaintiffs or other citizens from immediately filing another civil action against the Maritime Administration to deny the export of obsolete ships.

The effective loss of vessel export as a disposal option has prevented the Maritime Administration from taking advantage of very cost-effective proposals, including some that are revenue producing to the government. These options would be especially valuable for the Maritime Administration's vessels on the West Coast where there is only one qualified

facility for vessel disposal, which thus far has not successfully won a competitive procurement. The Department of Transportation is available to provide technical assistance to the Congress related to possible statutory changes to allow the Maritime Administration to have access to this important disposal option and to carry out such disposals.

Access to the vessel export option will significantly reduce disposal costs and expand capacity. In FY 2001, six ships were disposed of domestically through contract awards to three different facilities. The final unit costs were approximately \$253 per ton. In FY 2003, the AbleUK contract involved the export of 13 ships at a unit cost of \$144 per ton, and with the barter provision for title to two additional obsolete ships the total disposal unit cost for the 15 ships was \$104 per ton. Since FY 2003, the per ton disposal cost has continued to decrease, down to \$83 in FY 2006, which included the sale of five ships for recycling. The decrease in per ton costs since FY 2001 is attributable to a combination of factors including the increased competition represented by foreign proposals and domestic contractors, and an increase in the international market price of recyclable steel. While the decrease in per ton costs is encouraging, the significant capacity limitations of the domestic disposal industry show little potential for increases in the annual disposal rate of ships. Without the benefit of a competitive dismantling/recycling facility on the West Coast, there is little potential for increases in domestic recycling capacity.

While disposal methodologies such as foreign recycling and artificial reefing present many difficult challenges, the cost-effective, long-term solution to responsible and safe ship disposal must include these disposal alternatives. Without access to additional disposal facilities, the rate of disposal is unlikely to increase beyond the current rate and the costs associated with ship disposal will be unlikely to decrease.

Over the past year, the Maritime Administration as part of its Environmental Excellence Initiative (EEI) has been reviewing and taking action on environmental matters at all three fleet sites. An example is the engagement of a contractor at the SBRF to sample some of the paint on various vessels in the fleet and sediments in and outside of the fleet site. The results of the paint sampling showed what the Maritime Administration would have expected, i.e., that the paints contained various metals commonly found in old ship-board paints. The results of the sediment sampling in and around the fleet reflect contaminants commonly found in sediments in the Bay. In light of the historical and current activities in and around the Bay, the results are not unexpected and do not point to a particular source or sources.

Exfoliating paint is one of many reasons that the Maritime Administration has focused ship disposal efforts on removing the worst vessels from its fleet sites first. Although the Maritime Administration continues to believe that removing the ships is the most effective method for addressing all environmental risks posed by the obsolete vessels in the fleets, because of the ongoing challenges with NISA and the CWA that has delayed the expeditious removal of obsolete vessels, the Maritime Administration is now faced with longer-term management of the vessels. As such, this year the Maritime Administrator established an initiative to review the Agency's fleet practices in the context of long-term management. That initiative, the EEI, includes looking at procedures for accepting vessels into the fleets, identifying and evaluating environmental risks associated with long-term management of

vessels(including exfoliating paint), and development or adjustment of management practice to reduce environmental risks further. The sampling of the paint is one step in that process.

Notwithstanding the export and environmental challenges, the Maritime Administration will continue to investigate all alternatives identified in this report, and others that we may identify, to expedite the disposal of its obsolete vessels at qualified facilities and at the least cost to the Government, while giving consideration to worker safety and the environment, as required by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 P.L 106-398, Section 3502; 114 Stat. 1654A-490.



## **PROGRESS OF THE U.S. NAVY'S VESSEL DISPOSAL PROGRAM**

### **Introduction**

The Navy portion of this report is submitted pursuant to the National Defense Authorization Act for Fiscal Year 2006, P.L. 109-163, Section 3505(a)(f); 119 Stat. 3552 (2006), which requires periodic reporting by the Secretary of Transportation, in coordination with the Secretary of the Navy, on progress made in implementing plans to dispose of obsolete ships in its programs.

### **Navy-Titled Obsolete Vessels in the Maritime Administration National Defense Reserve Fleet**

The total number of Navy-titled vessels that are designated for disposal and that are remaining in the Maritime Administration National Defense Reserve Fleet (NDRF) facilities are nine (9) ships and two (2) service craft. Table 2 provides information regarding the method of disposal and projected cost of these vessels.

A contract was awarded in April 2007 to scrap the ex-GALLUP (PG 85) and ex-PROTEUS (IX 518). Both ships were removed.

### **Accomplishments Since November 2006**

#### **Domestic Ship Dismantling:**

The Navy continues to execute its strategy of utilizing multiple ship disposal methodologies to reduce the size of the inactive ship inventory, including foreign military sales, ship donations, experimental/target use, and domestic ship dismantling. In addition, Public Law 108-136 provides authority for the Navy to transfer vessels stricken from the Naval Vessel Register directly to a State, Commonwealth, or possession of the United States, municipal corporation, or political subdivision for use as an artificial reef.

Since November 2006, six (6) additional ships have been completely dismantled and recycled under the Navy's Ship Disposal Project contracts. During Fiscal Year 2007, a total of five (5) new Ship Disposal Project contracts were awarded to ESCO Marine Incorporated (ESCO) for ship dismantling in Brownsville, TX. All task orders are firm-fixed price, were competed amongst two (2) contractors, and are administered by Navy Supervisor of Shipbuilding, Conversion and Repair USN (SUPSHIP) Bath, ME. Table 3 identifies the status of Fiscal Year 2007 task orders under the new Ship Disposal Project contracts awarded in Fiscal Year 2005. This program enables the Navy to continue reducing its inventory of stricken ships, as expected in Senate Armed Services Committee Report 107-62 of September 12, 2001, while ensuring that ship dismantling will be completed in a timely and cost effective manner, and remaining in compliance with all environmental and occupational safety laws and regulations.

## **Navy Sink Exercises**

Since November 2006, four (4) additional ships<sup>1</sup> have been environmentally prepared and sunk during Fleet at-sea live-fire training exercises in water depths of at least 6,000 feet and at least 50 miles from land, in accordance with Title 40 Code of Federal Regulations Section 229.2.

## **Artificial Reefing**

The ex-FORRESTAL is currently being prepared for reefing based on lessons learned from the ex-ORISKANY project. The Navy has created a comprehensive sampling plan that was used to sample the ship for Polychlorinated Biphenyls (PCBs). This plan was released by EPA Region I via Naval Station Newport, RI where the vessel is currently located.

## **Remaining Inventory**

As of June 30, 2007, the Navy's inventory of inactive conventionally powered ships totaled sixty (60), including twelve (12) retention assets for possible future reactivation, five (5) logistic support assets held for extended Fleet stripping, and forty-three (43) ships designated for disposal by Foreign Military Sales transfer, ship donation for public display, Navy sink exercise, domestic dismantling, or artificial reefing.

## **Navy/Maritime Administration Cooperation**

The Navy and the Maritime Administration are also engaging in cooperative strategies addressing their respective inactive ship inventories and are meeting at regular intervals to share lessons learned on ship disposal programs. Ongoing initiatives include:

- The Navy and Maritime Administration executed a Memorandum of Agreement (MOA) that supports the Maritime Administration with on-site contract surveillance where the Navy and Maritime Administration both have ship dismantling contracts in place with the same contractor.
- Since November 1, 2006, no Maritime Administration ships have been sunk under our turn-key MOA to utilize the Maritime Administration ships for Navy training exercises.
- The Navy and the Maritime Administration executed a MOA where ex-Navy vessels are transferred from the Maritime Administration to the Navy for disposal under current Navy Ship Dismantling IDIQ contracts that would comply with requirements of H.R. 1815 Section 3505 (Fiscal Year 2006 National Defense Authorization Act). The ex-MISSISSINEWA (AO 144) was awarded in September 2007 under the Navy contact to International Shipbreaking Ltd., in Brownsville, TX, under terms of this MOA. Dismantling is approximately 25 percent complete with a completion date of December 2007.

The Maritime Administration completed the evaluation of the Navy estimates to utilize the vessels NEREUS (AS 17), POINT DEFIANCE (LSD 31) and THOMASTON (LSD 28) at Suisun Bay and the SPHINX (ARL 24) at the James River Reserve Fleet for sink exercises.

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<sup>1</sup> Inactive ships sunk during Fleet at-sea live-fire training exercises since November 2006 include ex-SAILFISH (SS 572), ex-VALLEY FORGE (CG 50), ex-SPRUANCE (DD 963), and ex LA SALLE (AGF 3).

## **Planned Activities**

### **Domestic Ship Dismantling**

In the fourth quarter of Fiscal Year 2007, the Navy plans to solicit proposals for two (2) additional ships under its IDIQ contracts for dismantling with award in Fiscal Year 2007 or in first quarter of Fiscal Year 2008, which would further reduce the inventory of inactive ships.

### **Navy Sink Exercises**

The Navy will continue to environmentally prepare ships stricken from the Naval Vessel Register for Fleet at-sea, live-fire training exercises and in support of new ship acquisition programs. The Navy requires approximately eight (8) ships per year for Navy fleet training purposes.

### **Artificial Reefing**

The Navy is finalizing the application and evaluation process for awarding ex-FORRESTAL as an artificial reef. An application will be sent to each State reefing coordinator in the Gulf Coast and Atlantic Coast as well as the governor's office for States with reefing programs. Responses to the application will be due thereafter, at which point the Secretary of the Navy will make a decision on award of the ex-FORRESTAL. Due to classification issues with Side Protection Systems on the Forrestal Class, the Navy requires that they must be reefed in a minimum of 450 feet of water. The goal of this deepwater reef project is to provide habitat for the protection and enhancement of deepwater snapper and grouper species.

In addition to preparing the ex-FORRESTAL, the ex-ARTHUR W RADFORD (DD 968) will be prepared for reefing. Due to the composite mast as potentially a floatable item, it will be removed by the Navy prior to offering the ship as a reef. Remaining preparations for artificial reefing will commence in Fiscal Year 2008. The Navy is working with the Atlantic Marine Fisheries Commission and the Gulf Coast Marine Fisheries Commission to finalize the application process for ex-ARTHUR W RADFORD.

### **Invasive Species**

Under Section 1101 of the National Invasive Species Act (NISA), 16 USC § 4711, the Coast Guard is charged with issuing regulations necessary to prevent the spread of invasive species. The statute does not address the applicability of those regulations to DoD vessels. The statute does, however, in Section 1103 (16 USC § 4713), establish a stand-alone program applicable to DoD vessels for the control of non-indigenous species in ballast water. The Navy regards the mandate for this stand-alone program as an indication of Congressional intent that Navy vessels not be subject to regulations to be issued by the Coast Guard under NISA Section 1101. In 1999 and 2004 NISA rulemakings, the Departments of Transportation and Homeland Security, respectively, expressed agreement with this interpretation. In 2007, the Coast Guard amended 40 CFR 151.2010 to clarify that DoD vessels are not subject to the ballast water management requirements at 40 CFR 151.2035.

The Navy and U.S. EPA, in consultation with the Coast Guard and other agencies, are currently working together to implement the Uniform National Discharge Standards (UNDS) program. UNDS is a joint rulemaking under Clean Water Act Section 312, 33 USC § 1322, which will address all incidental discharges from armed forces vessels. Inactive vessels owned by the Navy

are vessels covered by the UNDS program. Among the discharges for which regulations will be promulgated are ballast water and underwater hull husbandry.

### **Navy/Maritime Administration Cooperation**

The Navy and Maritime Administration will continue to engage in cooperative strategies addressing their respective inactive ship inventories and are meeting at regular intervals to share lessons learned on ship disposal programs. Future initiatives include:

- The Maritime Administration has requested the preparation of ex-NEREUS (AS 17), ex-POINT DEFIANCE (LSD 31), and ex-THOMASTON (LSD 28) located at the Maritime Administration Suisun Bay, CA for sink exercises under the Navy and Maritime Administration MOA.
- The Maritime Administration has agreed to work with Navy and Coast Guard on investigating and developing best management practices for NISA compliance.

### **Conclusions**

As addressed in the Navy's August 10, 2001 Report to Congress on the Disposal and Scrapping of Stricken U.S. Navy Ships, the Navy remains committed to reducing and eliminating any environmental risks posed by its inactive ships, and to reducing the size of the inactive ship inventory utilizing multiple ship disposal methodologies (i.e., foreign military sale transfers, ship donations, experimental/target use, title transfers to the Maritime Administration, domestic ship dismantling, and artificial reefing) that are most advantageous to the Navy, while also evaluating additional options for ship disposal.

Delaying ship disposal creates unnecessary risks and increases life cycle costs as inactive ships designated for disposal continue to deteriorate with age and the cost to maintain them increases. However, the Navy cannot sustain full utilization of all available ship disposal methodologies with limited future budgets for ship disposal.

The Navy and the EPA, in consultation with the Coast Guard and other agencies, are currently working together to implement the UNDS program, which addresses all incidental discharges from armed forces vessels.

## APPENDIX I

**Table 2 – Navy-Titled Obsolete Vessels in the Maritime Administration National Defense Reserve Fleet designated for disposal**

<b>Ship</b>	<b>Location</b>	<b>Method of Disposal</b>	<b>Projected Cost of Disposal</b>
<b>AFDM 2 drydock</b>	<b>Maritime Administration Beaumont, TX</b>	<b>H.R. 1815 Section 1013 (FY06 National Defense Authorization bill) proposes to grant AFDM 2 to the Port of Port Arthur, TX</b>	<b>\$0</b>
<b>Oriole (MHC 55)</b>	<b>Maritime Administration Beaumont, TX</b>	<b>Foreign Military Sale</b>	<b>\$0</b>
<b>Falcon (MHC 59)</b>	<b>Maritime Administration Beaumont, TX</b>	<b>Foreign Military Sale</b>	<b>\$0</b>
<b>Osprey (MHC 51)</b>	<b>Maritime Administration Beaumont, TX</b>	<b>Logistics Support Asset</b>	<b>\$500,000</b>
<b>Robin (MHC 54)</b>	<b>Maritime Administration Beaumont, TX</b>	<b>Logistics Support Asset</b>	<b>\$500,000</b>
<b>Iowa (BB 61)</b>	<b>Maritime Administration Suisun Bay, CA</b>	<b>Donation hold</b>	<b>\$0</b>
<b>Sea Shadow (IX 529)</b>	<b>Maritime Administration Suisun Bay, CA</b>	<b>Donation hold</b>	<b>\$0</b>
<b>Triumph (AGOS 1)</b>	<b>Maritime Administration Suisun Bay, CA</b>	<b>Transfer to another Navy activity for use as a training vessel</b>	<b>\$0</b>
<b>Horne (CG 30)</b>	<b>Maritime Administration Suisun Bay, CA</b>	<b>Navy Fleet Training Exercise</b>	<b>\$750,000</b>
<b>Fort Fisher (LSD 40)</b>	<b>Maritime Administration Suisun Bay, CA</b>	<b>CNO hold</b>	<b>\$400,000</b>
<b>Higgins (AO 190)</b>	<b>Maritime Administration Suisun Bay, CA</b>	<b>Foreign Military Sale</b>	<b>\$0</b>

**Notes: Ships designated for Navy sink exercise or artificial reefing may also be placed under contract for domestic ship dismantling based on availability of funding and determination of the disposition that is most advantageous for the Navy for the purpose of inactive ship inventory reduction.**

## APPENDIX II

**Table 3 – Ship Disposal Project Task Order Status – Fiscal Year 2007**

<b>Ship</b>	<b>Contractor</b>	<b>Awarded</b>	<b>Completed</b>	<b>Net Cost to Navy #</b>
Santa Barbara (AE-28) INACTSHIPMAINTO Philadelphia	ESCO Marine, Inc	Oct 2006	In Progress	\$781,089
Sacramento (AOE 1) INACTSHIPMAINTO Bremerton, WA	ESCO Marine, Inc	Apr 2007	Pending Tow Jun 2007	\$1,141,152
Camden (AOE 2) INACTSHIPMAINTO Bremerton, WA	ESCO Marine, Inc	Apr 2007	Pending Tow Jun 2007	\$1,141,152
Proteus (IX 518) MARAD Suisun Bay	ESCO Marine, Inc	Apr 2007	In Progress	\$1,431,500
Gallup (PG 85) MARAD Beaumont, TX	ESCO Marine, Inc	Apr 2007	In Progress	\$60,000

# Towing accomplished by Navy assets, not part of contract cost.

## APPENDIX III

### List of Acronyms

Army Corp of Engineers (ACE)  
Best Management Practices (BMP)  
Beaumont Reserve Fleet (BRF)  
Clean Water Act (CWA)  
Comprehensive Management Plan (CMP)  
Deep Sink Exercises (SINKEX)  
Department of Defense (DOD)  
ESCO Marine Incorporation (ESCO)  
Environmental Agency (EA)  
Environmental Protection Agency (EPA)  
Environmental Excellence Initiative (EEI)  
Federal Acquisition Regulation (FAR)  
Fiscal Year (FY)  
Hartlepoole Borough Council (HBC)  
Indefinite-Delivery\Indefinite-Quantity (IDIQ)  
James River Reserve Fleet (JRRF)  
Memorandum of Agreement (MOA)  
National Defense Reserve Fleet (NDRF)  
National Invasive Species Act (NISA)  
National Environment Protection Agency (NEPA)  
National Marine Fisheries Services (NMFS)  
National Oceanic and Atmospheric Administration (NOAA)  
Polychlorinated biphenyls (PCB)  
Suisan Bay Reserve Fleet (SBRF)  
Supervisor of Shipbuilding Conversion and Repair (SUPSHIP)  
Toxic Substance Control Act (TSCA)  
Uniform National Discharge Standards (UNDS)  
United States Coast Guard (USCG)  
United Kingdom (UK)  
Water Quality Control Board (WQCB)