

Title: MARAD Artificial Reefing Program – Frequently Asked Questions

Abstract:

This paper provides an overview of the Maritime Administration Office of Ship Disposal Artificial Reefing Program in a “Frequently Asked Questions” format. It is intended to provide background information to the reader regarding:

- MARAD’s statutory authority to donate vessels to States for reefing; and
- OSD’s application process to obtain a National Defense Reserve Fleet (NDRF) Vessel for the purpose of reefing.

Background:

MARAD’s Artificial Reefing Program is essentially a ship transfer action as MARAD does not actually reef any of its vessels itself. MARAD can only transfer title of vessels to States who intend to use the vessel as an artificial reef. Over the last decade the application process to obtain a vessel from MARAD for the purpose of reefing has been streamlined, while the actual preparation of the vessel for reefing has become more complex and time-consuming. This is primarily due to the increasing level of preparation and remediation necessary to ensure the ship is compliant with federal environmental Best Management Practices for vessel reefing. These requirements have also significantly increased the cost of utilizing NDRF ships as reefs.

MARAD OSD frequently responds to questions from States, NGOs and citizens regarding its Vessel Artificial Reefing Program. Most of the questions are some variant to “How can I get a vessel (*often a specific vessel*) from MARAD to create an artificial reef?” The answer to this question is better understood if the person asking the question has some general knowledge about MARAD and the Artificial Reefing Program, such as:

- How is MARAD organized and how does it operate with regards to transfer of obsolete ships for artificial reefing?
- What is the Office of Ship Disposal’s function within MARAD?
- What is MARAD’s statutory authority to dispose of ships for use as artificial reefs?
- How do I know what vessels are available from MARAD for transfer as an artificial reef?
- What is the process to apply to MARAD for a vessel for use as an artificial reef?

The remainder of this paper addresses these questions.

The Maritime Administration:

What does the Maritime Administration do? The Maritime Administration is part of the US Department of Transportation, with its Headquarters in Washington, D.C.

Programs of the Maritime Administration promote the development and maintenance of an adequate, well-balanced United States merchant marine, sufficient to carry the Nation's domestic waterborne commerce and a substantial portion of its waterborne foreign commerce, and capable of service as a naval and military auxiliary in time of war or national emergency. The Maritime Administration also seeks to ensure that the United States maintains adequate shipbuilding and repair services, efficient ports, effective intermodal water and land transportation systems, and reserve shipping capacity for use in time of national emergency.

What does the MARAD Office of Ship Disposal do? The Office of Ship Disposal is a Program Office within MARAD¹ (See Figure 1: Abridged MARAD Organization Chart below). Pursuant to the Federal Property and Administrative Service Act of 1949 the OSD serves as the U.S. Government's disposal agent for merchant type vessels of 1,500 gross tons or more. Until 2001 the primary method of disposal for obsolete NDRF vessels was vessel sales through competitive sealed bidding. In 2001 Congress passed the Floyd D. Spence National Defense Authorization Act (the DOD Authorization Act, FY 2001), which authorized the Maritime Administration to use appropriated funds for the procurement of ship dismantling and recycling services. Since then, the Maritime Administration's Ship Disposal Program has utilized vessel sales and ship recycling services as the primary means to dispose of obsolete NDRF vessels. In addition to recycling the Ship Disposal Program also includes artificial reefing, ship donation and Navy SINKEX (sink at-sea live-fire training exercise) as additional vessel disposal options.

What is the National Defense Reserve Fleet? The National Defense Reserve Fleet (NDRF) was established under Section 11 of the Merchant Ship Sales Act of 1946 to serve as a reserve of ships for national defense and national emergency purposes. At its peak in 1950, the NDRF had 2,277 ships in lay-up. Currently number of vessels in the NDRF is approximately 195.

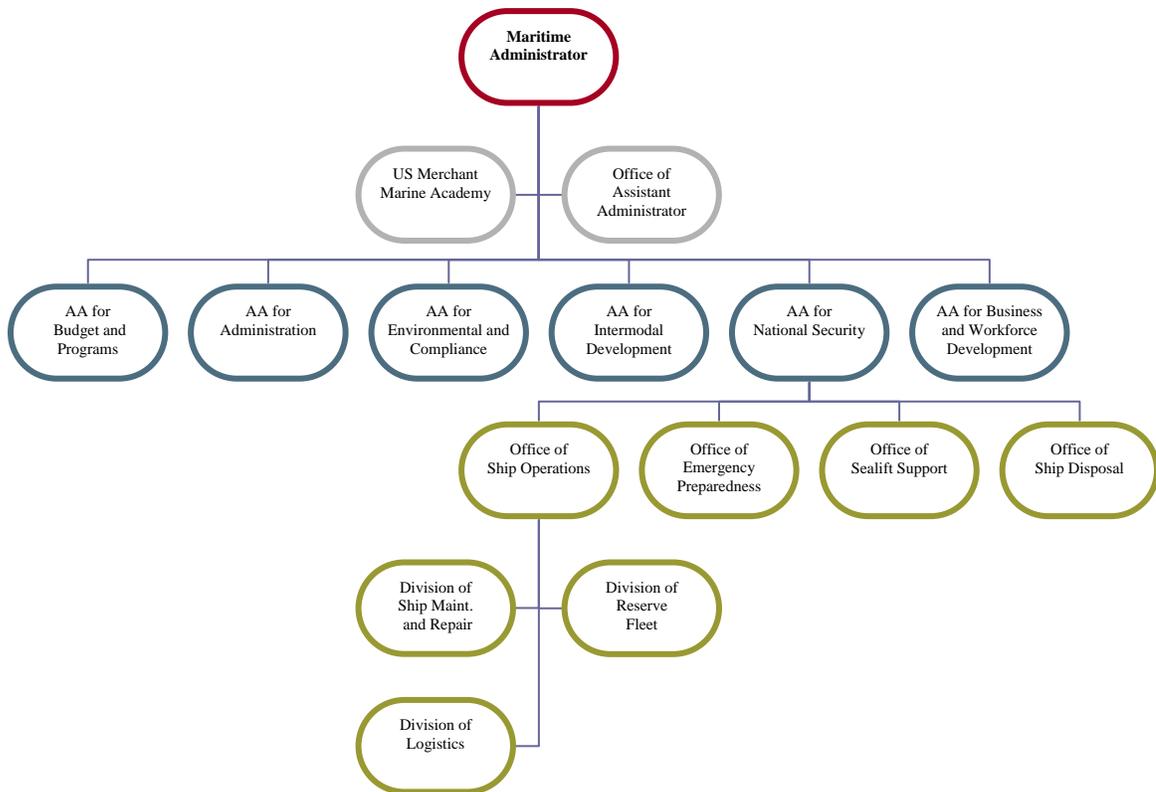
How does MARAD classify vessels in the NDRF? Vessels in the NDRF are classified by MARAD into four Status groups, which are: 1) Ready Reserve Force; 2) Custody Ships; 3) Retention Vessels; and 4) Non-Retention Vessels. MARAD vessels assigned to the Ready Reserve Force program are active ships that support DOD surge sealift requirements. Custody Ships are vessels owned/sponsored by other government programs or agencies that are being maintained by MARAD in the NDRF on a reimbursable basis. Retention Ships are MARAD vessels that are being preserved for federal agency programs that are, or can be made, active. Non-Retention Ships are non-active vessels that no longer have a useful application, and are pending disposition.

Where are NDRF vessels located? The NDRF vessels are now located at the James River, VA, Beaumont, TX, and Suisun Bay, CA, fleet sites, and at other designated outported berths.

Where can I get a list of vessels currently in the NDRF and information regarding the vessel status classification? A list of vessels in the NDRF is posted on the MARAD website². This list is updated on a regular basis and provides information regarding the type of ship, their location in the reserve fleets, hull number, the year built and ship design. Those vessels that are classified as non-retention will be disposed of using one of the four options allowed by law to MARAD, i.e., recycling, donation, artificial reefing or Navy SINKEX.

How does OSD “acquire” vessels for disposal and/or artificial reefing? It is important to note that OSD does **NOT** have custody of any vessels in the NDRF, nor does it determine a vessel’s status classification. OSD acts as the contracting agent for disposal for those vessels that have been classified by the MARAD Office of Ship Operations as Non-Retention (See Figure 1 below). When a vessel is classified as Non-Retention, the Division of Reserve Fleet prioritizes the vessel based upon physical condition and other parameters, and then OSD works to dispose of the highest priority vessels in the NDRF first.

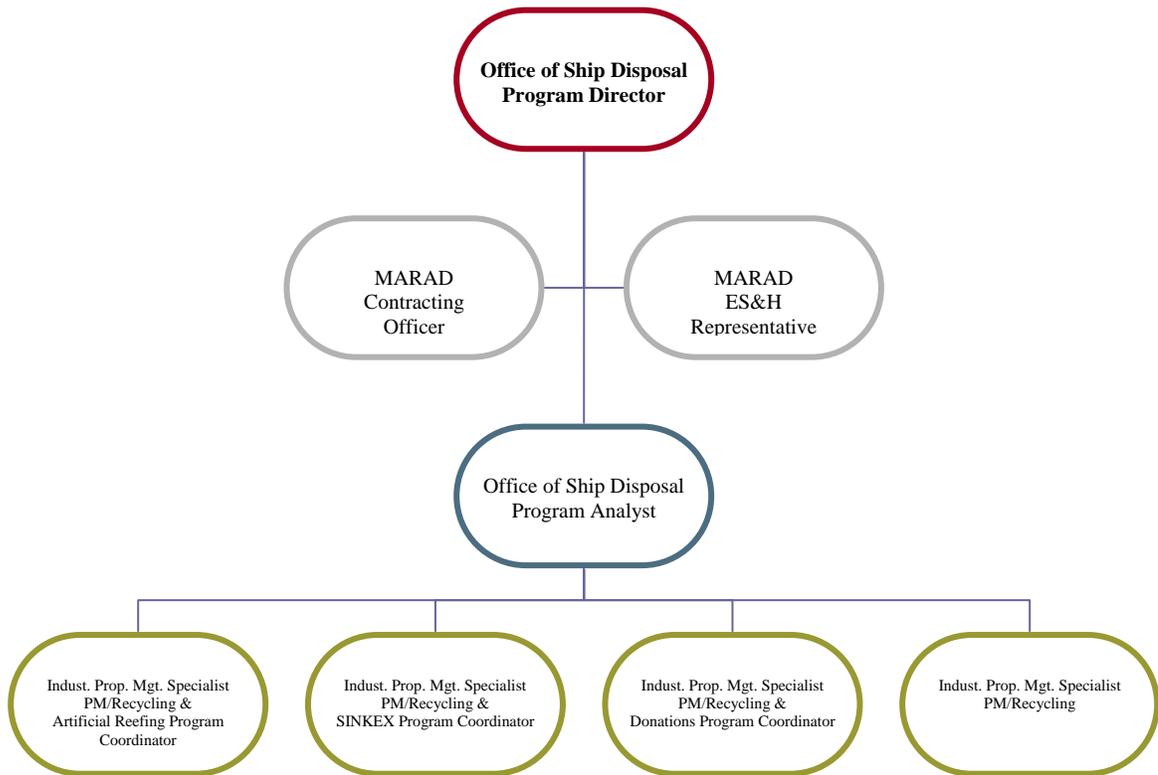
Figure 1: Abridged MARAD Organization Chart



How is the MARAD Office of Ship Disposal Organized? OSD is organized to manage the cost effective and efficient disposal of obsolete NDRF vessels. Additionally, OSD supports the MARAD Office of Acquisitions in soliciting vessels for disposal and aggressively manages the resulting vessel disposal contract utilizing proven project management techniques. After a disposal contract is awarded,

regardless of the disposal method, an OSD Project Manager (PM) is assigned to monitor contract compliance. Individual PMs within the OSD are assigned to be the point of contact for Artificial Reefing, Navy SINKEX and Donations. (See Figure 2: Office of Ship Disposal Organization Chart.) Additionally, an Environmental, Safety and Health (ES&H) representative from the MARAD Office of the Environment will assist the OSD PM in ensuring the vessel disposal is accomplished in conformance with the appropriate worker health & safety and environmental protection requirements.

Figure 2: Office of Ship Disposal Organization Chart



MARAD’s Legislative Authority for Artificial Reefing

What is MARAD’s legislative authority to dispose of ships for use as artificial reefs? MARAD’s vessel artificial reefing program³ is consistent with its legislative authority to dispose of obsolete ships. Artificial Reefing legislative authority can be summarized as follows: The MARAD Artificial Reef Program was established in 1972 under Public Law 92-402 authorizing the Secretary of Commerce to transfer obsolete Liberty ships in the National Defense Reserve Fleet (NDRF) to States filing the appropriate application. The Law was amended in 1984 by Public Law 98-623 to include any NDRF ship that is designated for scrapping and gave the Secretary of Transportation authority to transfer the vessels. The Law was further amended in 2004 by Public Law 108-136 requiring MARAD to jointly establish with the

Environmental Protection Agency (EPA) the: 1) development of industry Best Management Practices for vessel cleaning prior to reefing; and, 2) an application process for the “.....governments of States, commonwealths and United States territories and possession, and foreign governments for the preparation of vessels for use as artificial reefs, including documentation and certification requirements for that application process.”

For what purpose can MARAD dispose of a ship for use as an artificial reef? 16 U.S.C. 1220 (2007) provides for the transfer of ships for use as an offshore artificial reef **for the conservation of marine life**. 33 USC 2101 provides for the use of vessels **for the enhancement of fishery resources or diving opportunities**.

Can Navy ships be utilized as artificial reefs? The US Navy’s Inactive Ships Program⁴, which is separate from MARAD’s, can dispose of vessels via several options, including donation for the purpose of artificial reefing, using a process comparable to MARAD’s process. The first ship to be sunk under the Navy’s artificial reefing program was the ex-Oriskany on May 17th, 2006. It was also the largest ship intentionally sunk in the US as an artificial reef. The sinking marked the successful beginning of the Navy’s Inactive Ships Program’s (PMS 333) efforts to build artificial reefs while disposing of inactive Navy ships.

Does MARAD have a role in disposing of inactive Navy vessels? No. MARAD can only donate non-retention vessels from the NDRF to States for artificial reefing. MARAD has no authority regarding the Navy’s Inactive Ships program as it affects their artificial reefing program or their other ship disposal options.

MARAD’s Application Process to Obtain a Vessel for Artificial Reefing

Is there an established process to apply for a NDRF Non-Retention Vessel for use as an Artificial Reef? Yes. In 2004, Public Law 108-136 required MARAD to jointly establish with the Environmental Protection Agency (EPA) an application process for the “.....governments of States, commonwealths and United States territories and possession, and foreign governments for the preparation of vessels for use as artificial reefs, including documentation and certification requirements for that application process.” An Interagency work group was established with MARAD, EPA, US Navy and six other federal agencies develop an application (attached) for the donation transfer of vessels for use as artificial reefs.

From whom can MARAD accept an application for the transfer of an obsolete vessel to be utilized as an artificial reef? MARAD’s legislative authority only allows OSD to accept applications from States, commonwealths, United States territories and possessions, and foreign governments. MARAD requires that all applications be submitted through the Artificial Reef Coordinator (ARC) of their respective State. The position of ARC may be an official State position or an individual or organization that has been duly appointed and authorized by the State to perform this function.

Can MARAD OSD accept an application for the transfer of an obsolete vessel to be utilized as an artificial reef by an individual or non-governmental organization? No. MARAD's authority only allows it to accept applications from States through its ARC. If an individual or non-governmental organization submits an application for a vessel for use as an artificial reef, MARAD will return it to the applicant. Non-governmental organizations and/or individuals must contact their State ARC regarding any proposals for reefing. If the application is approved by their State, the State ARC must submit the application to MARAD OSD.

Does MARAD have the authority to waive legislative requirements or allow an exemption to accept an application from an NGO or individual in special cases? No. MARAD does not have the authority under the Law to waive any requirement with regards to artificial reefing of obsolete vessels. MARAD only has the authority to act on a vessel reefing application that has been prepared and submitted in accordance with the applicable statutory requirements.

Can MARAD provide financial assistance for the preparation of the vessel for reefing? Yes, with certain restrictions. 16 U.S.C. 1220c-1 (2007) authorizes the Secretary of Transportation, **subject to the availability of appropriations**, may provide financial assistance to prepare a ship for use as an artificial reef, including for 1) environmental remediation; 2) towing; and 3) sinking. This Section also establishes conditions on the amount of financial assistance that may be provided by MARAD, requiring the Secretary to consider: 1) the total amount available for providing assistance; 2) the benefit achieved by providing assistance; and 3) the **cost effectiveness** of disposing of the ship by transfer under this Act and provision of assistance under this section, **compared to other disposal options for that ship**.

What is the process to obtain a vessel from MARAD OSD for use as an artificial reef? An application for the donation of a NDRF Vessel for use as an artificial reef was developed jointly by MARAD, the EPA and other Agencies in 2006. The application requires that the Applicant submit a proposal to MARAD with detailed information in ten specific subject areas, including: 1) Applicant information; 2) Ship information; 3) Preparation of the ship for reefing; 4) Estimated time for reef construction; 5) Location of vessel sinking; 6) Plan and procedures for vessel sinking; 7) Conservation goals; 8) Preparation costs and funding; 9) Permits; and 10) a Signed Certification. (Letter of Application attached)

Prior to submitting the application the Applicant must identify a ship, or class of ships, that they are interested in obtaining from the NDRF for reefing. Note that the only ships in the NDRF that are available for reefing are those vessels classified as Non-Retention. Vessel selection should be discussed with the MARAD ARC prior to submittal of a formal application as not all non-retention vessels may be available for reefing. Following the determination of the availability of a ship or class of ships the Applicant will formalize and submit the Application. MARAD will then perform a review to determine the completeness of the Application, and if necessary, return the

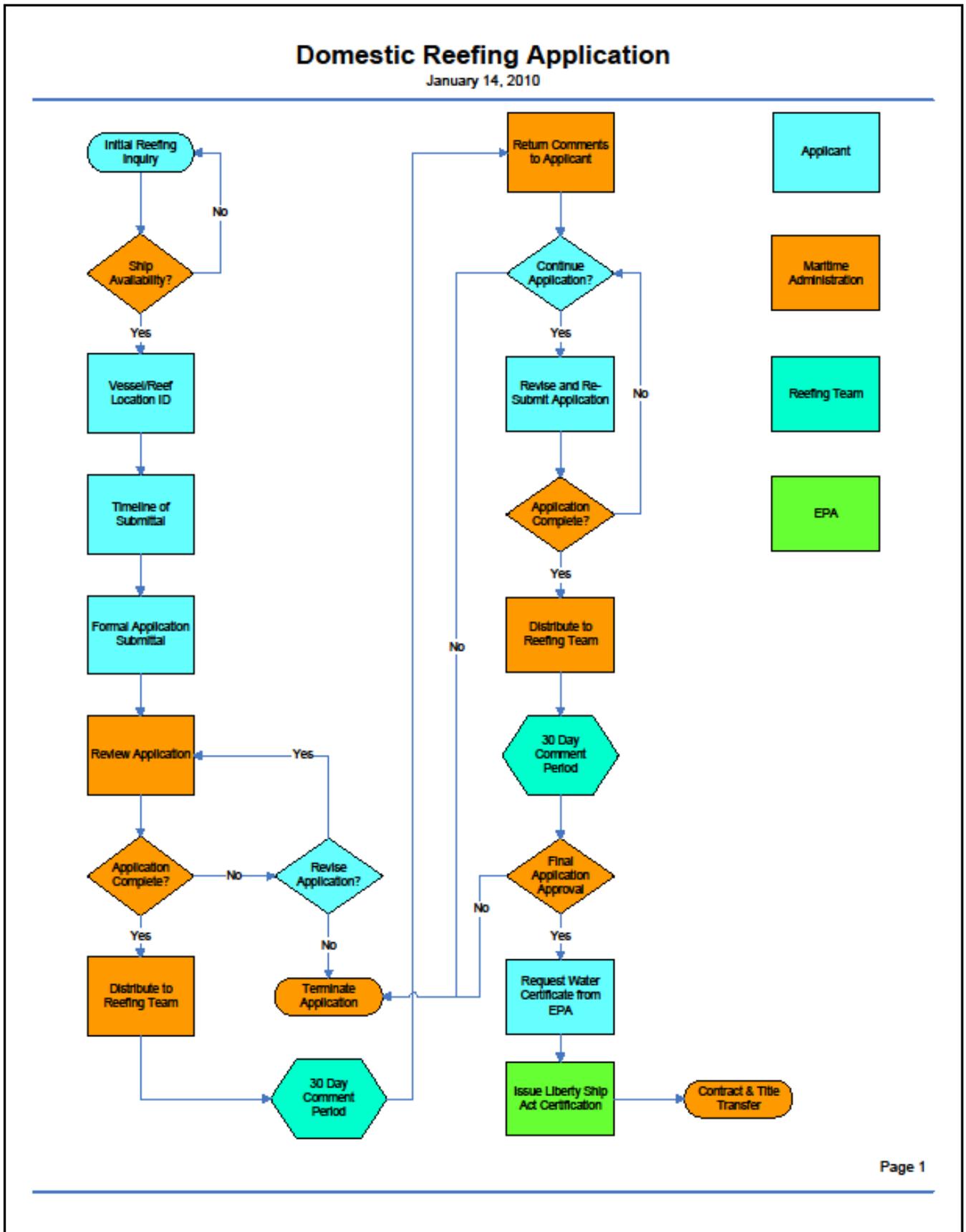
Application to the Applicant with comments for re-submittal. After the Application is deemed complete, MARAD will distribute the Application to the Federal Reefing Team for a 30-day comment period. MARAD will collect the comments and forward them to the Applicant for review, revision and re-submittal of the Application. Upon re-submittal of the Application, MARAD will distribute the revised Application to the Reefing Team for another 30-day comment period. After receiving comments, MARAD will perform a final review and will approve or disapprove the Application. The approval/disapproval decision by MARAD is both discretionary and final. There is no process of appeal of this decision. (See Figure 3: Domestic Reefing Application Flowchart)

If the Application is approved, MARAD and Applicant will enter into a contract transferring the Vessel Title to the Applicant at such time as the Applicant takes the Vessel under tow from the NDRF.

How will MARAD evaluate the Application? A best value analysis of the application will be performed using following selection criteria. 1) Meeting the requirements of the National Fishing Enhancement Act (33 USC 2101) for the enhancement of fishery resources or diving opportunities, 2) Availability of existing reef site and permits; 3) Plan for use, monitoring and managing the ship reef, including prevention of diver deaths; 4) Impact on National Marine Sanctuaries or coral reefs; 5) Plan for accomplishing vessel preparation requirements beyond the EPA Best Management Practices (BMP) for ship artificial reefing, or plan for accomplishing all vessel preparation requirements; 6) Towing and sinking plan, if accomplished by the State; 7) Cost sharing proposals; 8) Availability of studies demonstrating the environmental, fishery resources, and/or economic benefits of ship reefing within the State; 9) Demonstration of public support for the proposed ship reef; and 10) Connection with or enhancement of Naval or Maritime heritage.

How long does the application process take? Evaluation of an application by MARAD, including coordinating comments from other agencies can usually be performed within 90 to 120 days. Note however that this timeframe does not include the time required by the Applicant to prepare the application, evaluate and respond to agency comments, obtain EPA approval of the vessel cleaning plan or issuance of the EPA water quality certification, revise and resubmit the application if necessary, obtain any necessary federal and/or state permits necessary to reef the vessel at the chosen location, remediate and prepare the vessel for reefing. If it clear that the Applicant's reefing project will not be successful, or will ultimately take more time than MARAD can reasonable accommodate, MARAD may redirect the vessel to an alternative disposal option.

Figure 3: Domestic Reefing Application Flowchart



Vessel Preparation Requirements

To what standard must a MARAD vessel be cleaned prior to reefing? In May 2006, the EPA issued a joint EPA/MARAD guidance document entitled “*National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs*” (EPA842-B-06-002)⁵. The guidance satisfied the mandate of Section 3516 of the National Defense Authorization Act for Fiscal Year 2004, which required that the MARAD and the EPA jointly develop guidance recommending environmental best management practices (BMPs) to be used in the preparation of vessels for use as artificial reefs. The BMPs serve as national guidance for the preparation of vessels for use as artificial reefs. The goal of the guidance document is to ensure that vessels prepared for use as artificial reefs will be environmentally sound in their use as artificial reefs, to promote consistent use of such practices nationwide, to provide a basis for estimating the costs associated with the preparation of vessels for use as artificial reefs, and to include measures that will enhance the utility of the Artificial Reefing Program of the MARAD as an option for the disposal of obsolete vessels.

Vessel Selection for Artificial Reefing

How do I know which vessels are available from the NDRF for Artificial Reefing? In general, any non-retention NDRF ship may be the subject of an Application for artificial reefing. However, you should check with the OSD Artificial Reef Coordinator before submission of a formal application to determine the current status of a vessel and if MARAD believes it to be a good candidate for reefing. To determine which NDRF vessels are currently listed as non-retention, go the MARAD Property Management and Archive Record Website, located at <https://pmars.marad.dot.gov/> and use the “Select a Current or Past NDRF Inventory Report from the Drop-Down below” to generate a current NDRF inventory. Next, in the “Current NDRF Inventory Report” go the section of the Report that lists non-retention vessels by class of vessel. This section will provide specific information about the non-retention vessels including the name of the vessel, the year it was built, its homeport and status. Note that some non-retention vessels listed in the inventory may already be under contract for disposal and therefore not available for artificial reefing.

Where can I find the ship specifications of a Vessel in the NDRF? To determine specifications for specific NDRF vessels, go the MARAD Property Management and Archive Record Website, located at <https://pmars.marad.dot.gov/> and go to “Ships”. In this area of the PMARS website you can locate ships by “Name” that you have previously identified as a non-retention vessel (see FQA above) and may be available for artificial reefing. After locating the ship by name you can find basic ship data, such as type of ship, tonnage, LOA, and beam amidships, etc. Some historic data regarding the vessel may also be provided.

How are Vessels Prioritized for Disposal? MARAD attempts to dispose of non-retention NDRF vessels that are in the worst physical condition and may pose a greater threat to the environment sooner than vessels in better condition. Note that any non-retention NDRF vessel may be the subject of an artificial reefing application, not just high priority disposal vessels. In fact, being a high priority vessel **does not make** a ship a better candidate for reefing, as MARAD desires to dispose of high priority vessels as quickly as possible to reduce both the vessel risk to the environment and the cost of maintaining the vessel in the NDRF. Holding a high priority vessel in the NDRF for the additional time required to process a vessel artificial reefing application may increase the vessel's risk to the environment and its cost to maintain the vessel. These risks are better mitigated by recycling the vessel, which can be accomplished in a shorter period of time.

Will MARAD “reserve” a NDRF vessel for me while I am preparing my Application? No. It is MARAD statutory obligation to dispose of NDRF Non-Retention vessels in as expeditious manner as possible, using any and all disposal options. Reserving a vessel for reefing while an Application is prepared is considered contrary to this mandate.

Vessel Certificate of Transfer

When a vessel is awarded for artificial reefing, how is the Vessel Title transferred? Title to the vessel is transferred from MARAD to the State in a legally binding contract between MARAD and the State, termed a Certificate of Transfer. The Certificate of Transfer provides for the transfer of the Vessel Title from MARAD to the State at the time the State takes possession of the vessel from the NDRF.

After the State has Title to the vessel, can they do what ever they want with it? No. The Certificate of Transfer is a legally binding contract between the State and MARAD that proscribes exactly how the ship will be prepared for reefing, where it will be reefed, what financial assistance (if any) will be provided by MARAD, how the reef will be monitored, and many other requirements. A MARAD OSD Project Manager will be assigned to monitor and report on contract compliance. Deviations from the contract by the State must be approved in writing by the Contracting Officer.

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http://www.marad.dot.gov/ships_shipping_landing_page/ship_disposal_program/Ship_Disposal_Program.htm

2 http://www.marad.dot.gov/documents/NDRF_Inventory.pdf

3

http://www.marad.dot.gov/ships_shipping_landing_page/ship_disposal_program/artificial_reefing/Artificial_Reefing_Program.htm

4 http://peoships.crane.navy.mil/Inactiveships/Artificial_Reefing/default.htm

5 <http://www.epa.gov/owow/oceans/habitat/artificialreefs/documents/introduction.pdf>