

## **MEMORANDUM OF AGREEMENT**

*between the*

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

*and the*

**U.S. Department of the Navy, Program Executive Office – Ships (PMS 333)**

### **I. PURPOSE**

The purpose of this Memorandum of Agreement (MOA) between the U.S. Department of Transportation Maritime Administration (MARAD) and the U.S. Department of the Navy, Program Executive Office – Ships (PMS 333) is to establish an integrated MARAD/Navy process for the solicitation, receipt and evaluation of applications from States, Commonwealths, possessions of the U.S., municipal corporations or political subdivisions thereof (municipalities), and foreign organizations for donation transfer of obsolete MARAD and Navy vessels to be used as artificial reefs.

The goals are to share existing Government resources and capitalize on each agency's strengths to accomplish common agency goals; and to develop a uniform and consistent process that is fair and equitable for States, Commonwealths, possessions of the U.S., municipalities, and foreign organizations to apply for the donation transfer of obsolete MARAD and Navy vessels for use as artificial reefs.

### **II. SCOPE**

This MOA establishes an integrated MARAD/Navy process for the solicitation, receipt, and processing of applications for obsolete MARAD and Navy vessels to be used as artificial reefs. Each agency will be the final decision authority to approve the donation transfer of its respective agency-owned vessels for use as artificial reefs. Each agency will also execute its own donation transfer agreements for its respective agency-owned vessels in accordance with its own statutory authorities.

### **III. BACKGROUND**

MARAD has had statutory authority for the past 32 years under Public Law 92-402 (16 U.S.C. 1220 et seq) to donate obsolete vessels to States and Commonwealths for use as artificial reefs, and is seeking authority in FY04 to expand the authority to donate vessels to municipalities, possessions of the U.S., and foreign organizations. The Navy is seeking statutory authority in FY04 to donate obsolete vessels to States, Commonwealths, possessions of the U.S., and municipalities for use as artificial reefs.

Pursuant to section 203 (i) of the Federal Property Act (40 U.S.C. 484(i)), MARAD disposes of vessels, other than warships, if over 1,500 gross tons and determined to be merchant vessels or capable of conversion to merchant use. The Navy transfers certain merchant type naval vessels to MARAD, which may be utilized in MARAD's artificial reef program. However, the Navy retains control of the disposition of warships due to statutory restrictions on the transfer and disposal of warships, as well as the need to control the demilitarization and ultimate disposal of warships.

MARAD has donated numerous vessels in the 1970's and 1980's for use as artificial reefs, however the program has been in abeyance since the early 1990's due to the discovery of regulated polychlorinated biphenyls (PCB) in various non-liquid materials such as electrical cable insulation, felt gaskets, various rubber products, and paints. This issue is being addressed in the interagency development of Best Management Practices, to be issued by EPA, for environmentally preparing vessels for use as artificial reefs, and by obtaining risk-based PCB disposal permits from EPA.

Due to its experience executing a program for the donation transfer of obsolete vessels to be used as artificial reefs, MARAD will be the lead agency for the solicitation, receipt and evaluation of applications for the donation transfer of MARAD and Navy vessels for use as artificial reefs.

#### IV. PROCESS

- a. Each agency will identify specific vessels or types of obsolete vessels that may be available for donation transfer and use as artificial reefs. The disposition decision is based on what is most advantageous to the Government, and vessels may be redesignated for another means of disposal as agency priorities dictate.
- b. MARAD will advertise in the Federal Register the availability of both MARAD and Navy vessels that may be available for donation transfer and use as artificial reefs. Applications may be solicited by two methods:
  - Applications may be solicited by MARAD for a specific vessel by name, with a set deadline for the submission of the donation transfer application.
  - Applications may also be solicited by MARAD for a type of vessel, without identifying a specific vessel. In this case, a continuing open submission period will be maintained. As specific vessels of the types previously advertised become available, MARAD will advertise a cut off date for applications whereupon MARAD or Navy may select from available applications.
- c. MARAD will receive all applications for the donation transfer of MARAD and Navy vessels to only be used as artificial reefs. Due to the multitude of U.S. municipalities and in the interest of establishing an equitable process, applications from domestic municipalities must be submitted to the artificial reef coordinator of the State, Commonwealth, or U.S. possession wherein the municipality lies. MARAD will only accept one application from each State, Commonwealth, or U.S. possession for each specific vessel or type of vessel advertised. Upon a successful donation transfer, the State, Commonwealth, or U.S. possession may submit another application for another vessel or type of vessel.
- d. MARAD will request and receive interagency comments from the U.S. Fish and Wildlife Service, National Marine Fisheries Service, National Ocean Service, U.S. Army Corps of Engineers, U.S. Coast Guard, and U.S. Environmental Protection Agency, allowing a maximum 30 day review period. Interagency comments on State, Commonwealth, U.S. possession, or foreign organization submitted applications must be limited to that agency's area of responsibility.
- e. A team of MARAD and Navy personnel will evaluate each application based on an advertised set of criteria, including cost-sharing proposals, and considering interagency comments. The written evaluation results will be forwarded to the decision authority

within the agency owning title to the vessel to be donated for use as an artificial reef. The decision authority, at a minimum, will be the program manager of the respective ship disposal program. The decision will be based on a best value analysis.

- f. Each agency will also execute its own donation transfer agreement for its respective agency-owned vessels in accordance with its own statutory authorities.
- g. The transferee will be solely responsible for site reef permits and all other regulatory requirements not addressed by MARAD or Navy for the vessel in question. The approach for accomplishing environmental preparations may vary between MARAD and Navy vessels. The point of title transfer will be addressed in each donation transfer agreement and may vary between MARAD and Navy vessels. The transferee will be solely responsible for long-term liabilities associated with the use and maintenance of the vessel as an artificial reef.

## V. RESPONSIBILITIES

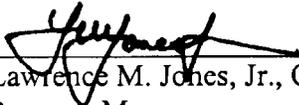
- a. In addition to the responsibilities described in section IV above, MARAD shall:
  - 1. Provide a qualified person to act in the capacity of the Artificial Reefing Coordinator (ARC) as a single point of contact, to provide assistance to the applying States, Commonwealths, U.S. possessions, municipalities, and foreign organizations for MARAD and Navy vessels to be used as artificial reefs, and for tracking and managing the application throughout all review, evaluation, and approval phases.
  - 2. Provide to PMS 333 a monthly status of all pending applications.
  - 3. Communicate promptly with PMS 333 regarding any emergent or political issues or concerns regarding any application received.
  - 4. Maintain regular communication with applicants regarding the status of their application once received by MARAD.
  - 5. The MARAD ARC shall provide the respective MARAD and Navy ship disposal program manager with concurrent copies of any correspondence, e-mails, and telephone logs between the ARC and anyone else (e.g., applicants, contractors, regulators, other agencies, Congressional/State/Municipal officials) regarding vessel donation transfer for reefing application.
  - 6. Establish procedures for any environmental preparations to be accomplished by MARAD on MARAD owned vessels prior to title transfer to a transferee, relative to the EPA Best Management Practices, and for the granting of any agency funds to the transferee for accomplishing environmental preparations subsequent to title transfer.
- b. In addition to the responsibilities described in section IV above, Navy shall:
  - 1. Furnish MARAD with a copy of all information necessary to advertise, solicit, and evaluate naval vessels that are available for artificial reefing. Upon MARAD

request, furnish MARAD with information necessary to advertise, solicit, and evaluate former Navy vessels that may be available for artificial reefing. This generally may consist of obtaining a copy of the Booklet of General Plans (i.e., general arrangement drawings) and/or other specific ship's documentation, if available, that may be missing from former Navy vessels in the MARAD National Defense Reserve Fleet.

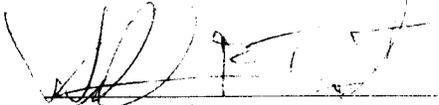
2. Nominate a representative(s) and alternate to participate in the evaluation of applications.
3. Establish procedures for any environmental preparations to be accomplished by Navy on Navy owned vessels prior to title transfer to a transferee, relative to the EPA Best Management Practices.

#### VI. TERM

This MOA will take effect on the date of signature of both parties and will remain in effect indefinitely, unless either party requests termination.

  
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Lawrence M. Jones, Jr., CAPT, USN  
Program Manager,  
Navy Inactive Ships Program  
Program Executive Office – Ships

9 OCT 03  
Date

  
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William F. Trost  
Director,  
Office of Ship Operations (MAR 610)

14 Oct 03  
Date