



Commandant
United States Coast Guard

2100 Second Street, S.W.
Stop 7363
Washington, DC 20593-7663
Staff Symbol: CG-533
Phone: (202) 372-2251
Fax: (202) 372-2905

COMDTINST 16465.5
14 OCT 2011

COMMANDANT INSTRUCTION 16465.5

Subj: VESSEL REMOVAL/DESTRUCTION UNDER FEDERAL WATER POLLUTION CONTROL ACT OR COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION & LIABILITY ACT

- Ref:
- (a) Abandoned Barge Act of 1992, 46 U.S.C. 4701, *et seq.*
 - (b) Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*
 - (c) Comprehensive Environmental Response Compensation & Liability Act, 42 U.S.C. § 9601 *et seq.*
 - (d) National Oil and Hazardous Substances Pollution Contingency Plan, Subparts D and E, 40 CFR 300.300 – 300.415.
 - (e) Removal of Wrecks and Other Obstructions, 33 CFR 245
 - (f) Intervention On The High Seas Act, 33 U.S.C. § 1471, *et seq.*
 - (g) Abandoned Vessels, COMDTINST M16465.43 (series)
 - (h) Volume IX-Marine Environmental Protection-Marine Safety Manual, COMDTINST M16000.14 (series)
 - (i) Programmatic Agreement on Protection of Historic Properties During Emergency Response Under the National Oil and Hazardous Substances Pollution Contingency Plan
 - (j) Inter-agency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities Under the Federal Water Pollution Control Act’s National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act
 - (k) Issuance of Permits by EPA, 40 CFR 220
 - (l) Ocean Dumping, 33 U.S.C. § 1401 *et seq.*
 - (m) Information and Life Cycle Management Manual, COMDTINST M5212.12 (series)

1. PURPOSE. This Instruction provides an overview of Coast Guard vessel removal/destruction policy, as well as the vessel removal/destruction action and approval procedures for Federal On

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Scene Coordinators (FOSCs). This Instruction is intended to be used as a resource throughout the vessel removal/destruction process.

2. ACTION. All Coast Guard unit commanders, commanding officers, officers-in-charge, deputy/assistant commandants, and chiefs of headquarters staff elements shall comply with the provisions of this Instruction. Internet release is authorized.
3. DIRECTIVES AFFECTED. None.
4. BACKGROUND. The Abandoned Barge Act of 1992, reference (a) made it illegal to abandon barges greater than 100 gross tons on the navigable waters of the United States. There is currently no comparable federal law for other vessels. Instead, authority to destroy other vessels is derived from several statutes. The Federal Water Pollution Control Act or FWPCA (33 USC 1321(c)(1)(B)(iii)), reference (b) gives the federal government the authority to “remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available,” and the Comprehensive Environmental Response Compensation and Liability Act or CERCLA (42 USC 9604 (e)(1)) reference (c) addresses the federal government’s authority to act to mitigate threats and “protect the public health or welfare or the environment” in cases of hazardous substance releases. The National Contingency Plan addresses operational response for oil removal, including removal and destruction of a discharging vessel, 40 CFR 300.300 *et seq.*, and hazardous substance response, 40 CFR 300.400 *et seq.* reference (d).
5. DISCUSSION.
 - a. Removal/Destruction Authorities.
 - (1) The U.S. Coast Guard has the authority to remove or destroy vessels under either the FWPCA, reference (b) or CERCLA statutes, reference (c) if they are discharging or threatening to discharge oil or hazardous substances, and they are deemed a substantial threat to public health and welfare as determined by the FOSC. The vessel removal/destruction process is not available for vessels that are simply a community nuisance. The normal posture is to remove the threat of pollution from the vessel in-situ. Criteria for vessel removal and destruction include a continued substantial threat to the environment if the vessel is not removed/destroyed, or evidence of continued illegal dumping. When vessels are to be removed or destroyed pursuant to the FWPCA, reference (b), the National Contingency Plan, 40 CFR Part 300, reference (d), and applicable Regional and Area contingency plans will be followed. These plans contain detailed guidance for the FOSC and other participants, applicable environmental laws, instructions and provisions for consultation with federal, state and local authorities, and funding provisions. The appendices to the regional and area plans may contain references to applicable environmental laws, agreements, memoranda of understanding, and provisions for consultations.
 - (2) The U.S. Army Corps of Engineers (USACE) shares some responsibility in removing abandoned vessels; however, USACE’s scope is limited to vessels that are hazards to navigation (33 CFR 245, reference (e)). Vessels removed under this authority do not need Commandant approval and may be handled as a matter between the Coast Guard Captain of

the Port and the USACE District Engineer, per enclosure (9) to reference (a). Environmental laws may still be applicable.

(3) State and local governments may also have the authority to remove or destroy abandoned vessels. State and local regulations can vary, but some provide for a more expedient disposal of an abandoned vessel that may otherwise not fit the criteria for removal or destruction under one of the federal authorities (FWPCA reference (b), CERCLA reference (c), or 33 CFR 245 reference (a)). Coordination with state and local officials is recommended in these situations.

(4) The Intervention on the High Seas Act (IHSA), reference (f), allows the U.S. government to “remove, and, if necessary, destroy” a vessel determined to be a “grave and imminent danger to the coastline or related interests of the United States,” (33 USC § 1474) even if that vessel and the source of pollution is located beyond the U.S. territorial sea boundary. Intervention with foreign vessels is used when an owner is uncooperative, taking no action, or taking insufficient action. The IHSA, reference (f), applies to oil and other substances.

b. Abandonment. Vessels that are prime candidates for removal/destruction, many times fall into the category of abandoned vessels. Abandoned Vessels, COMDTINST M16465.43 (series), reference (g) defines an abandoned vessel as “any craft designed for navigation that has been moored, stranded, wrecked, sunk, or left unattended for longer than 45 days. A vessel is not abandoned if it is on private property with the permission of the owner.” Abandoned vessels can become environmental and public health hazards due to their unattended condition and the presence of oil and hazardous substances onboard. Often older and in disrepair, abandoned vessels are prone to illegal dumping activities, which raises the risk of oil and hazardous substance exposure to the local community and surrounding environment. Though it is not necessary for a vessel to be officially declared abandoned prior to removal or destruction; it is highly encouraged if time allows. To prevent legal issues with regard to ownership and abandonment, FOSCs shall consult with their District Legal Office before commencing any vessel removal/destruction action.

6. REQUIRED COORDINATION. A thorough review process, including Commandant’s written authorization, must be completed prior to a vessel removal or destruction action. Though individual case circumstances can vary, the following steps represent the general guidance for all vessel removal/destruction actions. Additional questions and legal inquiries may be addressed servicing legal counsel.

a. Owners.

(1) For vessels with an identifiable owner who can be contacted, the owner shall be notified of any deficiencies via a Notice of Federal Interest, verbal or written Captain of the Port (COTP) order, Administrative Order, or other appropriate notification. A Notice of Federal Assumption of response activities may also be issued for actions to mitigate any threat or potential threat against an owner who is unresponsive or taking insufficient actions. If deficiencies are not corrected, the FOSC may proceed with the vessel removal/destruction action, but only after notifying the owner in writing of the intent to remove/destroy the vessel.

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- (2) In situations where an owner cannot be immediately identified or contacted, there are several alternate avenues the FOSC must pursue, including public notification via notice to mariners announcements, and notification in an official local journal in the county where the vessel is located. In the case of a foreign vessel with unidentified owner but country of origin is identified, a print or web posting in that countries trade or foreign journal would be appropriate. FOSCs must also contact any other parties that may have a vested interest in the vessel. Financial institutions, cargo owners, lien holders, investors and insurers can have additional legal rights to a vessel, and these entities may be better able to locate, notify, and compel the owner to take action.
- (3) To prevent legal issues with regard to ownership, FOSCs shall consult with their District Legal Office before commencing any vessel removal/destruction action.
- b. Flag States. For foreign flagged vessels, a Statement of No Objection (SNO) must be obtained from the vessel's flag state as part of the destruction process; however, efforts to obtain such a statement should not be allowed to hold up the removal or destruction process. Crew conditions (lack of food, freshwater, or sanitary conditions) should be resolved via local humanitarian organizations since the Oil Spill Liability Trust Fund (OSLTF) and CERCLA funds may not be used for these purposes. Further Coast Guard guidance on intervention is provided in reference (f) Volume IX-Marine Environmental Protection-Marine Safety Manual, COMDTINST M16000.14 (series) , reference (h).
- c. State Historical Preservation Office. Written approval from the appropriate State Historical Preservation Office (SHPO) is a requirement for vessels over 50 years old. The Programmatic Agreement, reference (i) provides detailed guidance on protection of historic properties during emergency responses under the NCP. Regional and Area plans provide additional guidance. The provisions of the Programmatic Agreement and implementing plans will apply in lieu of the provisions of 36 CFR Part 800 . Servicing legal counsel, in coordination with SILC EMD, can be consulted to provide further guidance on compliance with the National Historic Preservation Act (NHPA). A written summary of actions taken to comply with reference (i) and (j), if applicable, should be included with the application for removal/destruction.
- d. National Pollution Funds Center. Consultation with the National Pollution Funds Center (NPFC) is required. The NPFC must concur that the proposed action is consistent with policies regarding use of the OSLTF.
- e. Shore Infrastructure Logistics Center (SILC). Should be consulted to identify Basic Order Agreements within the COTP zone.
- f. Environmental Protection Agency. Preparation of a vessel removal/destruction request will normally, but not always, include involvement of the Environmental Protection Agency (EPA) Regional Response Team (RRT) representative as well as an application for an EPA Ocean Dumping Permit, reference (k) (see enclosure (1) for more information), and review by the District Legal Office.
7. REQUIREMENTS FOR VESSEL DESTRUCTION/REMOVAL REQUESTS. FOSCs requesting Commandant approval for a vessel removal/destruction request shall submit a memorandum through

their chain of command (District, District Legal, and Area) to the Commandant via the Coast Guard Headquarters Office of Incident Management and Preparedness Oil and Hazardous Substances Division (CG-5332). The request memorandum must articulate and document the factual basis behind the requested action. Requests submitted for vessel removal or destruction shall contain the following elements:

- a. Purpose. The purpose statement should indicate the action being requested, and include a brief summary of the situation
- b. Vessel Condition and Background. This paragraph should include the following:
 - (1) *Vessel description*. Describe the vessel including name, official number, date built (if known), flag state, owner or operator and last port of call (if known).
 - (2) *Vessel condition*. Describe the vessel's condition including hull, machinery, cargo, and presence or lack of appropriate documents or certificates.
 - (3) *Physical location*. Identify and describe the physical location of the vessel including the city, the dock or pier where the vessel is moored, the body of water the vessel is located in, and any nearby environmentally sensitive areas, potential archeological sites or sensitive cultural or historic resources or wildlife (including fish habitat) that may be affected. Location by latitude/longitude may be appropriate in some instances.
 - (4) *Oil/hazmat onboard and spills/releases*. Identify the type, amount, and location of oil and hazardous materials onboard the vessel. Describe circumstances of past, present, or potential future spills or releases. Discuss any environmental, weather, or human events that may cause, spread, or accelerate a spill or release (i.e. hurricane season, the vessel's accessibility to the public, etc.).
 - (5) *Cleanup actions*. Describe any cleanup actions taken to date and their effect at reducing or eliminating the vessel's spills or releases.
 - (6) *Vessel history*. Relate any relevant vessel history including use of the vessel for illegal dumping, or other criminal activities (i.e. drug manufacturing, theft, etc...).
 - (7) *Photographs, charts, and graphics*. Explain how attached photographs, diagrams, charts, and other graphics describe the vessel and or justify the request for removal/destruction action.
- c. Threats to Public Health, Welfare, and the Environment. Make the case for removal or destruction by describing how the vessel's condition is a threat to public health, or welfare, or the environment. In cases of oil, consult 40 CFR 300.305 (d)(2), reference (d). In cases of a hazardous substance release, consult the factors found at 40 CFR 300.415(b)(2)), reference (d).
 - (1) *Threats to the environment*. Identify and describe any actual or potential exposure of nearby fish and wildlife or historic and cultural resources, reference (i) to oil or hazardous materials, contamination of sensitive ecosystems, or any bulk storage that poses a spill or release threat.

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Also, describe how weather or environmental factors such as tides and currents may exacerbate a spill or release, or cause the vessel's oil or hazmat to move or spread.

(2) *Threats to public health or welfare.* Describe any threats to public health and welfare including actual or potential exposure to nearby populations or the food chain, contamination of drinking water supplies, or any bulk storage of oil or hazmat that may pose a threat to nearby populations.

- d. Endangerment Statement. The endangerment statement is a requirement for all vessel removal/destruction requests. It must read "Actual or threatened spills or releases from this vessel, if not addressed by implementing the response action, may present an imminent and substantial endangerment to public health, or welfare, or the environment."
 - e. Proposed and Alternative Actions. Explain the details of the proposed action and any alternatives considered. Provide a discussion of the pros and cons of each alternative, and indicate how the proposed action will address the threat left by any residual oil or hazardous material remaining onboard if cleanup operations did not include removal/destruction. Also, include any records of the vessel being used as a site for illegal dumping and the likelihood that the vessel could be used for this purpose in the future. Finally, be sure to include a statement that the NPFC has been consulted, and agrees that the proposed action is an appropriate use of the OSLTF.
 - f. Proposed Disposal Strategies. A vessel disposal plan, including a signature agreement with the facility (i.e. shipyard, public or private party) agreeing to take the vessel for disposal or an approved permit to dispose of the vessel at sea along with cost estimates per course of action. Example disposal strategies include: transport and subsequent disposal at a shipyard, ship breaking yard or other suitable facility, disposal at sea after cleaning (requires EPA Permit), or scrapping in place and hauling away debris.
 - g. Expected Impact Should Action be Delayed or Denied. Describe any expected changes to the situation should the removal/destruction action be delayed or denied including further contamination, additional response action, or increased costs. Include a worst case scenario if appropriate.
 - h. Additional Issues. Describe any additional issues that are relevant to the situation, including condition of the crew, onboard safety of life issues, cargo considerations, flag state involvement, archeological issues, historic issues, state and federal permitting, emergency response versus non-emergency response, etc. Additional issues include any historical data recovery or other actions required by the SHPO.
 - i. Enforcement Actions. List all relevant enforcement actions taken to date. Provide copies of all documents, including relevant owner correspondence, in the removal/destruction request package.
8. SUBMISSION PROCEDURES. The FOSC ensures all items are included, signs the memorandum, and forwards the request package to the appropriate District. A checklist is included in enclosure (3) to assist in assembling the package.

- a. District and Area Endorsement. The request must receive District and Area endorsements prior to arriving at Coast Guard Headquarters, Commandant (CG-5332).
 - b. Headquarters Concurrence, Review and Approval. Commandant (CG-5332) will receive the request package and check it for completeness before distribution.
 - (1) It will be sent to the Office of Maritime and International Law (CG-0941), the Office of Vessel Activities (CG-543), the Office of Marine Transportation Systems (CG-552), and the NPFC for concurrent review, a process that can be completed in 3-5 days. Upon receipt of the final office's concurrence, Commandant (CG-5332) will prepare and include two digests and the Commandant authorization memorandum, usually within 1-2 days.
 - (2) Commandant (CG-5332) will then submit the complete request package through the Headquarters chain of command to the Commandant for approval and signature (the package is reviewed by the following offices: the Office of Incident Management and Preparedness (CG-533), the Directorate for Response Policy (CG-53), the Assistant Commandant for Marine Safety, Security and Stewardship (CG-5), the Deputy Commandant for Operations (DCO), and the Vice Commandant (VCG)).
 - (3) Due to the large number of personnel involved in the final review and approval, this process can take from as few as 10 days to well over a month to complete. It is highly recommended that field units consider this routing timeline and plan vessel removal/destruction actions accordingly. It is also recommended that field units communicate any extenuating circumstances associated with the request through their chain of command that would require accelerated routing (i.e., weather window limits, political pressure, etc.) as soon as practicable. Commandant (CG-533) will review this information and facilitate the routing process, if possible.
 - (4) Once Commandant provides signatory approval to proceed with the removal/destruction action, Commandant (CG-5332) will send the official electronic copy of the authorization memorandum back to the FOSC and all Area/District/Unit level personnel within one day. Coast Guard Headquarters Office of Incident Management and Preparedness Oil & Hazardous Substance Division (CG-5332) will maintain the official record copy of the request package, concurrent review documents, Commandant authorization memorandum/Commandant approval and signed authorization memorandum as required by reference (k). For additional information or questions on this process, please contact the Coast Guard Headquarters Office of Incident Management and Preparedness Oil & Hazardous Substance Division at the above contact number.
9. PUBLIC RELEASE. This guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is not intended to nor does it impose legally-binding requirements on any party outside the Coast Guard. It represents the Coast Guard's current operational guidance on this topic and is intended to guide Coast Guard personnel in applying statutory and regulatory requirements.
10. RECORDS MANAGEMENT CONSIDERATIONS. This Instruction has been thoroughly reviewed during the directives clearance process, and it has been determined there are no further records scheduling requirements, in accordance with Federal Records Act, 44 U.S.C. 3101 et seq., NARA

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requirements, and Information and Life Cycle Management Manual, COMDTINST M5212.12 (series), reference (m). This policy does not have any significant or substantial change to existing records management requirements.

11. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS.

- a. The development of this Instruction and the general policies contained within it have been thoroughly reviewed by the originating office in conjunction with the Office of Environmental Management, and are categorically excluded (CE) under current USCG CE # 33 from further environmental analysis, in accordance with Section 2.B.2. and Figure 2-1 of the National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series). Because this Manual contains guidance on, and provisions for, compliance with applicable environmental mandates, Coast Guard categorical exclusion #33 is appropriate.
- b. This Instruction will not have any of the following: significant cumulative impacts on the human environment; substantial controversy or substantial change to existing environmental conditions; or inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment. All future specific actions resulting from the general policies in this Instruction must be individually evaluated for compliance with the National Environmental Policy Act (NEPA), DHS and Coast Guard NEPA policy, and compliance with all other environmental mandates.

12. FORMS/REPORTS. None.

C. B. Thomas/s/
Rear Admiral, U. S. Coast Guard
Director of Response Policy

Enclosures:

- (1) - Ocean Dumping Guidance
- (2) - Sample Vessel Removal/Destruction Request Letter
- (3) - Vessel Removal/Destruction Checklist

OCEAN DUMPING GUIDANCE

1. EPA Permits. The dumping of material into U.S. waters, including vessels, is regulated by 33 U.S.C. 1401, reference (l) and requires a permit from the United States Environmental Protection Agency (EPA) reference (k). The EPA issues three types of ocean dumping permits that are relevant to vessel removal/destruction actions: general, emergency, and reef program as described in 40 CFR Section 220.3. Volume IX-Marine Environmental Protection-Marine Safety Manual, COMDTINST M16000.14 (series) reference (h) also has additional information on ocean dumping.
 - a. General permits are normally issued for disposal of vessels at sea. Requests for disposal can be letter requests that note such items as the object for disposal, location, timeframe, and standard of cleanliness. Under a general permit, vessels are to be disposed of in designated disposal areas that are at least 300 feet deep and beyond 12 nautical miles from shore. The EPA representative to the Regional Response Team (RRT) may be helpful in assisting the FOSC to process an ocean dumping request. For charting purposes, the National Oceanic and Atmospheric Administration (NOAA) must also be informed and provided with information regarding any ocean dumping actions.
 - b. For particularly urgent situations, the EPA issues emergency dumping permits. The EPA Administrator may issue emergency permits for materials, which pose an unacceptable risk to human health, and there are no other feasible solutions. Any vessel dumped under this permit type should be cleaned as best possible, and if sunk within three nautical miles from shore, the appropriate state agency must be consulted.
 - c. Reef program dumping is also an option for some smaller-sized vessels. Under this program, a vessel can be sunk in relatively shallow waters in order to establish habitat for marine organisms and opportunities for recreational divers. Because reef dumping occurs within state waters, reef program permits are issued by the appropriate state agency. Vessels sunk under the reef program have very high standards for cleanliness and safety due to their close proximity to shore.
2. The U.S. Navy and the Department of Transportation's Artificial Reef Program. An important but separate program involved with vessel disposal is the U.S. Navy and the Department of Transportation's Maritime Administration (MARAD) Artificial Reef Program. This program is designed to dispose of obsolete vessels within the U.S. Navy or MARAD fleet. An obsolete vessel will be passed from the federal government to a state, territorial, or local government that can use the vessel as an artificial reef. MARAD will award the obsolete vessel to a non-federal government through their permitting process. Vessels are awarded in an "as is" condition and the recipient local government is responsible for all cleaning, transportation, sinking, and other associated costs. The federal agencies typically involved in this process include MARAD, U.S. Navy, U.S. Coast Guard, EPA, USACE, the Department of the Interior (DOI), and NOAA. The local government, as part of the application process, must also be issued a Clean Water Act Section 404 permit from the USACE for the intended reef project. U.S. Coast Guard involvement in the permit process normally consists of a review of the permit by the Sector or District office responsible for the area where the vessel is to be sunk.

SAMPLE VESSEL REMOVAL/DESTRUCTION REQUEST LETTER

16200
1 Jan XXXX

From: Name
Sector/Unit

To: COMDT (CG-00)
Thru: (1) CGD DISTRICT (d)
(2) LANTAREA/PACAREA
(3) COMDT (CG-5332)

Subj: REQUEST FOR REMOVAL/DESTRUCTION OF M/V NAME (1234567) UNDER FWPCA

Ref: (a) Vessel Removal/Destruction Under Federal Water Pollution Control Act or Comprehensive Environmental Response Compensation & Liability Act, COMDTINST 16465.5 (series)

1. In accordance with reference (a), I respectfully request permission for the removal/destruction of the M/V NAME (1234567) under the authority granted in Title 33, United States Code, 1321(c)(1)(B)(iii). This action is necessary in the opinion of the Federal On Scene Coordinator (FOSC) as the vessel represents a substantial pollution threat to the navigable waters of the United States.
2. The M/V NAME is a U.S. flagged, 1954 steel hull transport vessel with a registered length of 150 feet and 200 gross tons. M/V NAME's propulsion and electrical systems are inoperable. For over five years, the vessel has been physically located at its mooring in City Harbor on the river in the port of City, State. There is no identifiable owner or operator and Sector personnel have been unable to locate any current information regarding the last known owner or operator (or, The owner/operator is...). The vessel is in a significant state of disrepair, with degraded watertight integrity that has been allowing water intrusion into the bilge and engine spaces. The vessel has no valid documents/certificates. Nearby environmentally sensitive areas include the river estuary which is a critical habitat for various species of shore birds.
3. The vessel contains an estimated 1000 gallons of diesel in the fuel tank and 50 gallons of lube oil in the engine room. Also, the vessel's refrigeration system holds 200 pounds of Freon gas, and there are about 15 gallons of oil-based paint in the vessel's forward locker, and various interior compartments are coated with lead-based paint. Due to water incursion, the vessel also contains an undetermined amount of oily water mixture in the bilges. The presence of additional oil onboard the vessel indicates that the vessel is now being used for illegal dumping of waste oil. Due to the vessel's poor watertight integrity, a sheen is visible around the hull. Without response action the vessel is likely to sink in the near future and spill all the oil and hazardous materials contained onboard. With the approaching winter season and associated storms, the increased wave action will only further compromise the vessel's watertight integrity and make the vessel more susceptible to spills. No cleanup actions have been conducted on the vessel to date, and the vessel has no relevant spill history. Vessel photographs and the charted location on the River are enclosed as attachments.

4. The M/V NAME's poor watertight integrity, significant volume of waste oil onboard, and location of nearby environmentally sensitive areas represents a substantial pollution threat to the environment and the navigable waters of the United States. If spilled, the oil onboard the M/V NAME would impact the annual migration of the river smelt, the main food source for several migratory bird populations. In addition, the sensitive rocky intertidal ecosystems of City Harbor would be damaged. Actual or threatened spills of oil or releases of hazardous materials from this vessel, if not addressed by implementing the response action selected in this request, may present an imminent and substantial endangerment to public health, welfare, and the environment. Furthermore, the State Historical Preservation Office (SHPO) has been contacted and determined that M/V NAME does not have significant historical value. SHPO's letter of no objection to the destruction action is enclosed. [Insert other environmental compliance efforts if applicable.]

5. The preferred response action for the M/V NAME is to remove the oil and hazardous materials onboard via cleanup contractor and have the vessel towed to an EPA approved disposal site 12 miles offshore in the Atlantic Ocean. An EPA Ocean Dumping Permit has been requested and approval is expected shortly. The case officer at the National Pollution Fund Center has been briefed and agrees that disposal of this vessel is consistent with use of the Oil Spill Liability Trust Fund. While disposal of the vessel offshore is more expensive, it will assure that the vessel does not continue to be used as an illegal dumping site. An alternative action is to remove the available oil and hazardous material onboard and leave the vessel in its present location. Though this action would be considerably less costly, it would not remove the threat posed by illegal dumping. Furthermore, it would allow residual oil to damage the sensitive ecosystem around the vessel.

6. Should the proposed response action not be taken or be delayed, the vessel's condition will continue to decline and will result in an eventual oil spill of over 1,000 gallons of oil and oily water mixture, as well as the release of several different types of hazardous materials into the environment. Furthermore, tidal action during such a spill will likely spread the oil to the environmentally sensitive area and species previously noted. Cleaning such an oil spill would be considerably more costly and time consuming than responding to oil contained completely within the vessel.

7. There are no additional issues or enforcement actions taken regarding this vessel.

8. Thank you for your consideration in this matter. If you need any further information, please contact Rank & Name, at Phone Number.

#

Encl: (1) Photos
(2) SHPO letter

VESSEL REMOVAL/DESTRUCTION PROCESS CHECKLIST

1. Identify vessel owner or establish abandonment.
2. Notify vessel owner in writing of intent to remove/destroy.
3. Provide public notification if owner cannot be contacted/identified.
4. Obtain NPFC approval for use of the Oil Spill Liability Trust Fund. (Identify NPFC Case Manager in request package.)
5. Comply with Reference (k) and (l) if applicable.
6. Consult with servicing legal counsel for guidance on whether any other environmental laws apply.
7. Obtain SNO from flag state if foreign flagged.
8. Apply for an ocean dumping permit if applicable.
9. Complete a Vessel Removal/Destruction Request Memorandum package, including:
 - a. Purpose for proposed action
 - b. Vessel condition and background
 - (1) Vessel description
 - (2) Vessel condition
 - (3) Physical location
 - (4) Oil/Hazmat onboard and spills/releases
 - (5) Cleanup actions
 - (6) Vessel history
 - (7) Photographs, charts, and graphics
 - c. Threats to public health, welfare, and the environment
 - d. Endangered statement
 - e. Proposed and alternative actions
 - f. Proposed disposal strategies
 - (1) Signed agreement with disposal facility and/or required EPA permit for disposal at sea.
 - g. Expected impact should action be delayed or denied
 - h. Additional issues
 - i. Enforcement actions
10. Route the FOSC signed request memorandum package through the chain of command to the Commandant for authorization.
11. Ensure all case information included in request package is appropriately documented in MISLE. Additionally, ensure any following correspondence regarding the request package including the signed authorization memo by the Commandant is entered into the MISLE case.

Note 1: Commandant's written authorization is required for all vessel removal/destruction actions. Units must include all applicable information in the request package to avoid delays during the review process.

Note 2: Depending on the size of the vessel and magnitude of the response, Special Team such as the Navy's Office of the Director of Ocean Engineering, Supervisor of Salvage and Diving (SUPSALV), Marine Safety Center's Salvage Engineering Response Team (SERT), or the Coast Guard's National Strike Force (NSF) can be an valuable response resources to the FOSC.