



Marine Environmental Response (MER) Administrative Orders Tactics, Techniques, and Procedures (TTP)



Force Readiness Command
(FORCECOM)

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COAST GUARD TACTICS, TECHNIQUES, AND PROCEDURES 3.75.3

Subj: MARINE ENVIRONMENTAL RESPONSE (MER) ADMINISTRATIVE ORDERS

- Ref:
- (a) Federal Water Pollution Control Act (FWPCA), 33 U.S.C. §§ 1251-1376, as amended by the Oil Pollution Act (OPA) of 1990, 33 U.S.C. §§ 2701-2762
 - (b) The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675
 - (c) Delegation of Authority, 33 C.F.R. §1.01-70-90
 - (d) Delegation of Authority, 33 C.F.R. §1.01-20
 - (e) National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300.130
 - (f) Federal Maritime Security Coordinator Designation and Authorities, 33 C.F.R., Part 103, Subpart B
 - (g) Maritime Security (MARSEC) Levels, 33 C.F.R. § 101.200
 - (h) Saving Life and Property, 14 U.S.C. § 88
 - (i) U. S. Coast Guard Addendum to the United States National Search and Rescue Supplement (NSS) to the International Aeronautical Maritime Search and Rescue Manual (IAMSAR), COMDTINST M16130.2 (series)
 - (j) Abatement Actions, 42 U.S.C. § 9606
 - (k) Determination of Reportable Quantities for Hazardous Substances, 40 C.F.R. Part 117
 - (l) Designation, Reportable Quantities and Notification, 40 C.F.R. Part 302
 - (m) Captain of the Port Orders Tactics, Techniques, and Procedures (TTP), CGTTP 3-71.3 (series)
 - (n) Resource Conservation Recovery Act (RCRA), Public Law 94-580
 - (o) Adjustment of Civil Monetary Penalties for Inflation, 33 C.F.R. Part 27

1. **PURPOSE.** To instruct Sector and Marine Safety Units (MSU) personnel on the proper drafting and issuing of Administrative Orders. To include authorities, application guidance, considerations, drafting processes, and documentation with Coast Guard tactics, techniques, and procedures (CGTTP) to prevent or remove an actual or substantial threat of a discharge of oil/release of a hazardous substance within the coastal zone.

2. **ACTION.** This CGTTP publication applies to Federal On Scene Coordinators (FOSC), FOSC's Representatives (FOSCR), Response Departments and Command Centers in properly issuing Administrative Orders to support Marine Environmental Response. Internet release authorized.
3. **DIRECTIVES/TTP AFFECTED.** NONE.
4. **DISCUSSION.** An Administrative Order can be used to direct a responsible party to act in a particular manner, such as removing oil and hazardous substances from a facility or vessel, deploying boom around potential discharge locations and environmentally sensitive areas, and properly disposing of oil or hazardous substances. Administrative Orders are issued by the FOSC under the authority granted in the Federal Water Pollution Control Act (FWPCA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as appropriate. Administrative Orders are typically used by the FOSC to direct the responsible party to take appropriate action of the cleanup or for the USCG to assume federal control of the cleanup.
5. **DISTRIBUTION.** FORCECOM TTP Division posts an electronic version of this TTP publication to the CGTTP Library on CGPortal. In CGPortal, navigate to the CGTTP Library by selecting **References > Tactics, Techniques, and Procedures Library**. FORCECOM TTP Division does not provide paper distribution of this publication.
6. **FORMS/REPORTS.** The forms called for in this publication are available in USCG electronic forms on the standard workstation or on the Internet: <http://www.uscg.mil/forms/>; CGPortal: Select References from the home page; and Intranet at <http://cgweb.comdt.uscg.mil/CGForms>.
7. **REQUEST FOR CHANGES.** Submit recommendations for TTP improvements or corrections through the TTP Request form on CGPortal. In CGPortal, navigate to the TTP Request form by selecting **References > FORCECOM- TTP Request**.

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Chief, FORCECOM TTP Division (FC-P)
By Direction of Commander,
Force Readiness Command

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Chapter 1: Introduction

Introduction

This chapter overviews the content of this tactics, techniques, and procedures (TTP) publication. It also defines the use of notes, cautions, and warnings in TTP publications.

In This Chapter

This chapter contains the following sections:

Section	Title	Page
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B	Notes, Cautions, and Warnings	1-4

Section A: Introduction

A.1. Purpose

An Administrative Order is one of several tools available to the federal on-scene coordinator (FOSC) to prevent or respond to an actual or substantial threat of oil discharge or hazardous substance release within the coastal zone. Use an Administrative Order to direct a responsible party to act in a particular manner, such as:

- Removing oil and hazardous substances from a facility or vessel,
- Deploying boom around potential discharge locations and environmentally sensitive areas.
- Properly disposing of oil or hazardous substances.

Administrative Orders are issued by the FOSC under the authority granted in reference (a), Federal Water Pollution Control Act (FWPCA), 33 U.S.C. §§ 1251-1376, as amended by the Oil Pollution Act (OPA) of 1990, 33 U.S.C. §§ 2701-2762, and reference (b) The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675, as appropriate. Administrative Orders are typically used by the FOSC to direct the responsible party to take appropriate action prior to assuming federal control of the cleanup.

This TTP publication instructs Sector and Marine Safety Unit (MSU) personnel on the proper drafting and issuing of Administrative Orders. This includes authorities, application guidance, considerations, drafting processes, and documentation.

NOTE:

The National Contingency Plan uses the term “On-Scene Coordinator” (OSC) to describe the predesignated official responsible for coordinating and directing the removal of oil discharges and hazardous substance releases. The Coast Guard uses the term “federal on-scene coordinator” (FOSC). For the purposes of this TTP publication, OSC and FOSC are synonymous.

NOTE:

FWPCA was amended by the Clean Water Act and subsequently amended again by the Oil Pollution Act (OPA) of 1990. For the purposes of this TTP publication, FWPCA is used.

A.2. Audience and Scope

This TTP publication aids FOSCs, FOSC’s representatives (FOSCR), response departments and Command Centers.

The process typically concludes when the responsible party:

- Takes actions as directed in the Administrative Order.
 - When the FOSC assumes federal control.
 - When the situation no longer poses a threat to public health or the environment.
-

A.3. Governing References

Reference (a), Federal Water Pollution Control Act (FWPCA), 33 U.S.C. §§ 1251-1376, as amended by the Oil Pollution Act (OPA) of 1990, 33 U.S.C. §§ 2701-2762, and reference (b) The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675, are considered “governing references” within this publication.

As such, in this document it will be referred to by the short title:

- FWPCA, 33 U.S.C. §§ 1251-1376, as amended by the OPA of 1990, 33 U.S.C. §§ 2701-2762,
 - CERCLA, 42 U.S.C. §§ 9601-9675.
-

Section B: Notes, Cautions, and Warnings

B.1. Overview The following definitions apply to notes, cautions, and warnings found in TTP publications.

NOTE: **An emphasized statement, procedure, or technique.**

CAUTION: **A procedure, technique, or action that, if not followed, carries the risk of equipment damage.**

WARNING: *A procedure, technique, or action that, if not followed, carries the risk of personnel injury or death.*

Chapter 2: Fundamental Principles

Introduction

This chapter explains marine environmental response authorities and jurisdictions as they relate to issuing Administrative Orders. It also explains how they relate to the other authorities Sector Commanders have within their FOSC area of responsibility (AOR), and Administrative Order applicability, considerations, and documentation.

In This Chapter

This chapter contains the following sections:

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C	Application	2-7
D	Drafting and Documentation	2-11

Section A: Sector Commander Authorities

A.1. Overview

The Sector Commander has a wide range of authorities and responsibilities under Federal law. Consider the five authorities (listed below) of the Sector Commander and the variety of tools available to gain compliance before using an Administrative Order. Often times a Notice of Federal Interest (NOFI), letter of concern, or Vessel or Facility Inspection Requirements Form ([CG-835](#)) is the more practical tool.

- Federal on-scene coordinator (FOSC).
- Federal maritime security coordinator (FMSC).
- Captain of the port (COTP).
- Officer in charge, marine inspections (OCMI).
- Search and rescue mission coordinator (SMC).



Figure 2-1 Sector Commander authorities

Understand the authorities associated with each title and ensure the United States Coast Guard (USCG) has jurisdiction before taking enforcement action. [Appendix B: Sector Commander Title Toolkit](#) lists common compliance tools used in conjunction with these regulatory titles. In addition, nine sectors have vessel traffic services (VTS) that issue measures to control vessel traffic. These measures only apply to the VTS operating area, which is typically a small part of the COTP AOR.

NOTE:

FOSCs are highly encouraged to consult their servicing district legal office prior to issuing an Administrative Order.

**A.2. Federal
On-Scene
Coordinator
(FOSC)
Authority**

Regulations in reference (c), Delegation of Authority, 33 C.F.R. § 1.01-70-90, outline FOOSC authorities to direct response, mitigation, and/or recovery actions for incidents involving the release of hazardous substances, pollutants, or contaminants. This authority stems from two laws:

- Reference (a), FWPCA, 33 U.S.C. §§ 1251-1376, as amended by the OPA of 1990, 33 U.S.C. §§ 2701-2762, as amended, provides authority for the response to oil discharges and releases of certain hazardous substances into the navigable waters of the United States.
- Reference (b), CERCLA, 42 U.S.C. §§ 9601-9675, provides authority for the response to a release of hazardous substances, pollutants, or contaminants into the environment.

The FOOSC's roles and responsibilities under reference (a) and (b), are codified in reference (e), National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300.130, (commonly referred to as the National Contingency Plan).

**A.3. Other
Authorities**

The following are additional regulatory titles of the Sector Commander, but are not used to issue Administrative Orders.

**A.3.a. Federal
Maritime Security
Coordinator
(FMSC)**

Reference (f), Federal Maritime Security Coordinator (FMSC) Designation and Authorities, 33 C.F.R. Part 103, Subpart B, identifies the COTP as the FMSC. The FMSC authorities in reference (e) include:

- Raising the port maritime security condition (see reference (g), Maritime Security (MARSEC) Levels, 33 C.F.R § 101.200),
- Establishing an area maritime security committee,
- Developing and implementing the area maritime security plan.

**A.3.b. Captain of
the Port (COTP)**

As noted in reference (c), COTPs and his/her representatives enforce port safety, security and marine environmental protection regulations within the respective AORs. This includes regulations for protection and security of vessels, harbors, waterfront facilities, and waterways. Representatives evaluate vessel, facility, and cargo-related compliance with USCG and local standards. The COTP cannot delegate the authority to ensure order compliance. Execute all COTP orders with the knowledge and permission of the COTP.

A.3.c. Officer in Charge, Marine Inspections (OCMI)

Reference (d), Delegation of Authority, 33 C.F.R. § 1.01-20, defines OCMI and gives the OCMI authority to ensure United States flagged vessels:

- Comply with construction, manning, and operational requirements;
- Conduct investigations of casualties and accidents;
- Ensure oversight of U.S. licensed merchant marine officers and seaman.

A.3.d. Search and Rescue Mission Coordinator (SMC)

SMC is not a regulatory authority, but a responsibility mandated by law. Reference (h), Saving Life and Property, 14 United States Code (U.S.C.) § 88, states that the USCG:

- Performs any and all acts necessary to rescue and aid persons as well as protect and save property.
- Takes charge of and protects all property saved from marine or aircraft disasters, or floods, at which the USCG is present; until such property is claimed by persons legally authorized to receive it or until otherwise disposed of in accordance with law and applicable regulations, and care for bodies of those who may have perished in such catastrophes.
- Furnishes clothing, food, lodging, medicines, and other necessary supplies and services to persons succored by the USCG.
- Destroys or tows into port sunken or floating dangers to navigation.

Per reference (i), U.S. Coast Guard Addendum to the United States National Search and Rescue Supplement (NSS) to the International Aeronautical Maritime Search and Rescue Manual (IAMSAR), COMDTINST M16130.2 (series), District Commanders have the responsibility to manage search and rescue cases. While SMC typically resides at the Sector level, SMC can be shifted to the District in instances where the complexity of the case exceeds the Sector's ability to effectively plan and coordinate the search effort.

Section B: Considerations

B.1. Scope

An Administrative Order describes reasonable, objective, and tailored actions or corrective measures for the responsible party to take. The intended use of the Administrative Order is for the cleanup of a pollutant, to prevent an imminent/substantial threat or from an actual discharge/release of pollution.

Use Administrative Orders in the following situations:

- When there is a known responsible party and identified source; and,
- The responsible party is not taking appropriate or timely action; or,
- The responsible party is unwilling or incapable of conducting cleanup.

NOTE:

Allow the responsible party sufficient time to initiate cleanup based on approved Vessel or Facility Response Plans before considering an Administrative Order. The FOSC initiates response actions as needed while “sufficient time” is provided as it varies depending on geographic, environmental, political factors, etc.

NOTE:

The term “sufficient time” is subjective and ultimately determined by the FOSC. The determination of “sufficient time” varies from and is influenced by geographic, environmental, political factors, etc. The FOSC always initiates response actions as needed while “sufficient time” is provided.

B.2. Reconsideration

Any person directly affected by an Administrative Order issued under FWPCA or CERCLA can request reconsideration by the FOSC. Requesting reconsideration is not a formal appeal; rather it provides the responsible party an opportunity to present any additional information to the FOSC that was not previously known at time of issuance of the Administrative Order. The request is rapidly processed by notifying the chain of command and preparing a reply to the requester. Render this request orally with a written follow up.

In each Administrative Order, include a statement notifying the responsible party of the opportunity for reconsideration.

The act of requesting reconsideration does not stay an Administrative Order.

B.2.a. FOSC
Actions on
Reconsideration

If the FOSC **AGREES** with the reconsideration, advise the responsible party and amend the Administrative Order, as applicable.

If the FOSC **DISAGREES** with the reconsideration, advise the responsible party of their opportunity to submit a formal appeal.

B.3. Formal Appeals

Any person directly affected by an Administrative Order issued under FWPCA or CERCLA can submit a formal, written appeal to the applicable authority. Under FWPCA formal appeals must be directed to the district courts of the United States. Under CERCLA formal appeals must be directed to the respective Coast Guard District Commander, within 15 days of issuance of the Administrative Order.

In each Administrative Order, include a statement notifying the responsible party of the opportunity for appeal.

The act of placing an appeal does not stay an Administrative Order.

B.3.a. FOSC
Actions on
Formal Appeals

If the FOSC disagrees with the appeal, issue a formal written notification to the responsible party informing them of this decision, as follows:

- **Denied Administrative Order reconsiderations/appeals, under FWPCA:** Advise the responsible party that the USCG will undertake no further action or review with regard to this matter.
 - **Denied Administrative Order reconsiderations/appeals, under CERCLA:** Direct the responsible party to the applicable District Commander, if he/she desires to request again.
-

B.4. Persistence

An Administrative Order is only applicable within the COTP zone in which it was issued. Administrative Orders do not carry from one COTP zone to another.

B.5. Leveraging Other Government Agency Authorities

Consider alternative actions and other agency assistance such as overlapping authorities that are brought to bear to address emergent issues. Administrative Orders are used in conjunction with other, independent actions that fall under other legal authorities (i.e., local fire/hazmat, state environmental agency, state office of emergency management, etc.).

B.6. Political and Public Affairs

If issuing an Administrative Order is anticipated to raise significant political or media attention, brief your chain of command. Consider consulting with district and servicing legal staff prior to issuing, or immediately following issuance of, an Administrative Order.

Section C: Application

C.1. Authorities The following are the authorities for issuing Administrative Orders.

C.1.a. Federal
Water Pollution
Control Act
(FWPCA)

The FWPCA is the source of authority for issuing Administrative Orders as outlined in reference (a), FWPCA, 33 U.S.C. § 1321, as amended by the OPA of 1990, 33 U.S.C. §§ 2701, for incidents of oil discharges and certain hazardous substance releases into the navigable waters of the United States.

In accordance with subparts b and d of reference (e), National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300.130:

(b) *“The Administrator of Environmental Protection Agency (EPA) or the Secretary of the department in which the USCG is operating, as appropriate, is authorized to initiate and, in the case of a discharge posing a substantial threat to public health or welfare of the United States is required to initiate and direct, appropriate response activities when the Administrator or Secretary determines that any oil or Clean Water Act (CWA) hazardous substance is discharged or there is a substantial threat of such discharge from any vessel or offshore or onshore facility into or on the navigable waters of the United States, on the adjoining shorelines to the navigable waters, into or on the waters of the exclusive economic zone, or that may affect natural resources belonging to, appertaining to, or under exclusive management authority of the United States; or”*

(d) *“In addition to any actions taken by a state or local government, the Administrator of EPA or the Secretary of the department in which the USCG is operating may . . . take any other action authorized by section 311 of the CWA ..., including issuing Administrative Orders, that may be necessary to protect the public health or welfare, if the Administrator or Secretary determines.”*

WARNING:

The FOSC must determine and properly document that there is a possibility of an imminent and substantial threat. The threat would cause harm to the public health, welfare or the environment of the United States. The threat could come from any vessel or offshore/onshore facility and cause harm into or upon the navigable waters of the United States. This includes fish, shellfish, wildlife, public and private property, shorelines, beaches, habitats, living and nonliving natural resources under the jurisdiction or control of the United States.

C.1.b.
Comprehensive
Environmental
Response,
Compensation,
and Liability Act
(CERCLA)

CERCLA gives FOSCs the authority to issue Administrative Orders for “hazardous substance incidents.”

In accordance with subpart d of reference (e), National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300.130:

(d) *“In addition to any actions taken by a state or local government, the Administrator of EPA or the Secretary of the department in which the USCG is operating may . . . take any other action authorized by section 106 of CERCLA ..., including issuing Administrative Orders, that may be necessary to protect the public health or welfare, if the Administrator or Secretary determines.”*

WARNING:

When deciding to issue a CERCLA Administrative Order because of a hazardous substance release, the FOSC determines that there is an imminent and substantial endangerment to the public health or welfare of the United States or the environment.

NOTE:

Notice to States: Reference (j), Abatement Actions, 42 U.S.C. § 9606, requires that the affected state be notified of the intent to issue a CERCLA Administrative Order prior to its actual issuance. In addition, consult EPA during any issuance of a CERCLA Administrative Order.

C.1.c.
Applicability

Reference (e), outlines the basic applicability for use of Administrative Orders, as follows:

- Oils listed on the Coast Guard List of Petroleum and Non-petroleum Oils found on the [CG-MER Portal](#), use a FWPCA Administrative Order. The FOSC makes a determination that there is a possibility of a imminent and substantial threat to the public health or welfare of the United States or the environment of the United States (see [Chapter 2: Fundamental Principles, Section A.2. FOSC Authority](#) above).
- Hazardous substances contained in reference (k), Determination of Reportable Quantities for Hazardous Substances, 40 C.F.R. Part 117, when released into the navigable waters, use a FWPCA Administrative Order. The FOSC makes a determination that there is a possibility of a imminent and substantial threat to the public health or welfare of the United States or the environment of the United States (see [Chapter 2: Fundamental Principles, Section A.2. FOSC Authority](#) above).

- Hazardous substances contained in reference (l), Designation, Reportable Quantities, and Notification, 40 C.F.R. Part 302, when released into the environment, use CERCLA Administrative Order. The FOSC makes a determination that there is a possibility of a imminent and substantial endangerment to the public health, welfare, or the environment because of a release of a CERCLA hazardous substance from a facility. See [Appendix A: Glossary and Acronyms](#) for listing of specific facility definitions.

NOTE: **FOSCs cannot issue a CERCLA Administrative Order to a vessel.**

C.2. Jurisdiction The USCG FOSC jurisdiction is in the coastal zone as defined in reference (e), National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300.130, and Area Contingency Plans. Check the memoranda of understanding with EPA or the Regional Contingency Plan for specific jurisdictional responsibilities.

NOTE: **Remember FOSC responsibilities in the coastal zone may include release of a hazardous substance from a non-maritime related facility. This could be a manufacturing facility, storage site or railcar that the USCG does not have any other regulatory responsibilities over.**

C.3. Determinations The FOSC must make a determination for a discharge or release as follows:

For a release of a FWPCA product reference (k), Determination of Reportable Quantities for Hazardous Substances, 40 C.F.R. Part 117 and:

- Determine where there is an imminent and substantial threat to the public health, welfare, or the environment of the United States.
- Determine if the discharge or threat of discharge of oil is of a harmful quantity and the released hazardous substance exceeds the reportable quantity (RQ) as defined by the table in reference (k).

NOTE: **Remember, the discharge or release must threaten the navigable waters of the United States.**

For a release of a CERCLA product reference (1), Designation, Reportable Quantities, and Notification, 40 C.F.R. Part 302 do this:

- Determine where there is an imminent and substantial threat to the public health, welfare, or the environment of the United States.
- Determine if the discharge of a release or threat of release of a CERCLA hazardous substance from a facility, is into the “environment” which includes land, air or water.

C.4. Other Enforcement Tools

The use of a COTP Order is a possible consideration for many port-related incidents that have both port safety and environmental concerns. Using a COTP Order to manage overarching vessel issues relating to a collision or allision might be appropriate to address navigational, salvage, stability, and cargo transfer-related issues.

The Administrative Order is more appropriate for management of actual response activities or imminent threat of a release or discharge. Use of an Administrative Order requires consideration of associated risks and impacts based on potential release or discharge, type of product, threat to public health and welfare, environmental impacts, and economic impact.

Administrative Orders are one of several tools available to the FOSC to compel compliance specifically relating to oil and hazardous substances. Use the appropriate tools, such as a COTP Order or Vessel or Facility Inspection Requirements Form ([CG-835](#)), to obtain routine regulatory compliance.

Section D: Drafting and Documentation

D.1. General Guidance

The Coast Guard business letter is the standard format for Administrative Orders. Review each Administrative Order thoroughly for the correct information (date, responsible party, regulatory and statutory cite). Refer to [Chapter 3: FWPCA Administrative Orders, Section B: Format Guide](#) for specific formatting guidance.

D.2. Verbal Administrative Orders

Authorizations by the FOSC, in extremis, or with an emergent event, can issue a verbal Administrative Order, but always follow up with a written order signed by the FOSC.

As an example, the FOSCR and/or pollution responder (PR) responding to a reported sheen in navigable waters identifies the responsible party and the suspect source. If the responsible party is blatantly unwilling to affect any clean-up efforts, despite evidence that supports he/she is responsible for the spill, the FOSC issues a verbal Administrative Order based on the responsible party's unwillingness to affect a timely clean up.

NOTE:

Issue verbal Administrative Orders only after having briefed and obtained permission from the FOSC.

D.3. Tracking

Understand unit administrative procedures for tracking/filing Administrative Orders. A best practice is to select a numbering system for status control and tracking, as well as enforcement (do not duplicate or skip numbers) for Administrative Orders. Refer to reference (m), Captain of the Port Orders Tactics, Techniques and Procedures, CGTTP 3-71.3 (series), for best practices for numbering Administrative Orders.

D.4. Distribution

Share issued Administrative Orders with all applicable local, state and federal agencies, as well as district staff elements per local/district guidance.

D.5. Follow up on Administrative Orders

Following the issuance of an Administrative Order, the FOSC follows up with documentation. Several situations could arise.

- The responsible party **completes** the requirements of the Administrative Order and requests documentation of compliance.
 - Issue a letter to document that the responsible party complied with the Administrative Order, and the order has been terminated. An example is provided in [Appendix C: Administrative Order Termination Letter](#).

NOTE:

Rescinding or canceling the issued Administrative Order once the responsible party complies, could be interpreted as a repeal of the requirements or a suggestion that the Administrative Order's requirements were never needed or appropriate for the situation. Therefore, issue a letter of termination to document the responsible party completion of requirements listed in an Administrative Order.

- The responsible party **does not complete** the requirements listed in the Administrative Order.
 - Issue a Notice of Federal Assumption (NOFA) and initiate a federally directed cleanup. Coordinate with the National Pollution Fund Center's case officer and district legal regarding the responsible party's lack of cooperation in meeting his/her legal responsibility.
- The responsible party **only completes some of the requirements listed** in the Administrative Order.
 - Initiate a federally directed response for those uncompleted requirements from the Administrative Order.
 - In addition, evaluate the responsible party's efforts to comply with the Administrative Order and his/her legal responsibility to complete actions under the National Contingency Plan. Seek counsel of the National Pollution Fund Center's case officer and district legal.

D.6. Marine Information for Safety and Law Enforcement (MISLE)

Include the signed Administrative Order in the Marine Information for Safety and Law Enforcement (MISLE) database. Issuing an Administrative Order is not a stand-alone event and is a part of an ongoing MISLE case. Add the Administrative Order as a timeline entry, upload as an attachment in the Incident Management Activity and upload as evidence in the Incident Investigation Activity.

Chapter 3: Federal Water Pollution Control Act (FWPCA) Administrative Orders

Introduction

FWPCA Administrative Orders are issued to the responsible party, which may include a vessel, facility, or individual, under the authority of reference (a), FWPCA, 33 U.S.C. §§ 1251-1376, as amended by the OPA of 1990, 33 U.S.C. §§ 2701-2762. The FOSC could issue an Administrative Order directing the responsible party to take specific actions to ensure effective and immediate removal of a discharge/release or to prevent a substantial threat of a discharge/release.

In This Chapter

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Section A: Process Guide

A.1. FWPCA Administrative Order Awareness

When writing the Administrative Order, understand the authority being used and be objective, specific, and reasonable with requirements or directions issued.

Coast Guard policy is to allow the responsible party to proceed according to established plans with the responsible party taking appropriate action and acting consistent with the plans. Administrative Orders are typically used when the responsible party fails to take appropriate, timely, and effective action. Administrative Orders provide clear direction to the responsible party and offers an opportunity to take corrective action prior to the FOSC assuming federal control. FOSCs are highly encouraged to use Administrative Orders as a compliance tool prior to assuming federal control of the response. However, the use of an Administrative Order is not required for the FOSC to direct or assume federal control.

Under normal circumstances, the Administrative Order is issued following the NOFI and prior to assuming federal control of the cleanup via a NOFA. Templates for both NOFI and NOFA's are located on the [CG-MER Portal page](#).

Follow the guidelines listed in the preceding sections for compelling compliance from a responsible party using a FWPCA Administrative Order.

A.1.a. Draft/Sign Administrative Order

The FOSCR drafts the Administrative Order and/or procedure as required. Conduct internal unit briefs through the chain of command to the FOSC. Once signed by the FOSC, issue the Administrative Order.

A.1.b. Issue Administrative Order

Issue an Administrative Order to the responsible party. Refer to [Chapter 3: FWPCA Administrative Orders, Section B: Format Guide](#) for required and suggested information to include in the order.

A.1.c. Confirm Receipt

Get confirmation of receipt with the responsible party's name, date, and signature. Consider including an acknowledgement line within the Administrative Order.

A.1.d. Notification	Notify appropriate stakeholders, including local, state, and federal trustees as outlined in the Area Contingency Plan, of the Administrative Order. Consider notifying the adjacent FOSCs if the actual or substantial threat of discharge or release could impact their AOR to coordinate enforcement or obtain concurrence.
A.1.e. Appeals Process	An Administrative Order under FWPCA can be reconsidered by the FOSC, at the request of the responsible party. In each Administrative Order, include a statement notifying the responsible party of the opportunity to request reconsideration. Rapidly process the request by notifying the chain of command and preparing a reply to the requester.
A.1.f. Monitor and Track	Monitor the situation to determine if the responsible party is complying with the Administrative Order. For situational awareness, coordinate with the Sector Command Center.
A.1.g. Completion of Actions	<p>The Administrative Order is typically no longer in effect for one of the following reasons:</p> <ul style="list-style-type: none"> • The responsible party has completed the requirements of the Administrative Order to the satisfaction of the FOSC; or, • The FOSC assumes federal control of the cleanup; or, • The FOSC determines the cleanup is no longer necessary. <p>Ensure the chain of command and Sector Command Center are briefed regularly regarding the responsible party's actions as required by the Administrative Order. Enter any terminations of Administrative Orders into MISLE.</p>
A.1.h. Draft/Sign Termination of Administrative Orders	The FOSCR drafts a letter terminating the Administrative Order. Once signed by the FOSC, issue the termination and have the responsible party acknowledge receipt. An example letter is located in Appendix C: Administrative Order Termination Letter . Suggested language for terminated Administrative Orders include: "The requirements of your Administrative Order have been met and I consider this action terminated."
A.1.i. Documentation	Include a copy of the Administrative Order in the MISLE activity, unit case file, and the National Pollution Funds Center (NPFC) Incident Response and Transmittal.

Section B: Format Guide

B.1. Content Requirements

The Coast Guard business letter is the standard format for all Administrative Orders. If a situation exists that precludes the transmission or delivery of a standard Coast Guard letter to the responsible party, use other formats as appropriate (e.g., telex message for vessel located offshore).

Example Administrative Orders are included in [Appendix D: FWPCA Administrative Order Scenario 1](#) through [Appendix H: FWPCA Administrative Order Scenario 5](#). Word version examples of these Administrative Orders are available on the [CG-MER Portal](#).

B.1.a. Contact Information

Enter the name and contact information for the responsible party.

B.1.b. Subject Line

Enter a subject line with the name of the responsible party or subject. Follow examples in [Appendix D: FWPCA Administrative Order Scenario 1](#) through [Appendix H: FWPCA Administrative Order Scenario 5](#) for appropriate guidance.

NOTE:

Best practice is to use an internal numbering system for tracking purposes, similar to COTP Orders.

B.1.c. Authority

Start all Administrative Orders with a paragraph that lists the appropriate legal and regulatory authorities for issuing and enforcing Administrative Orders. Use the provided statement in examples in [Appendix D: FWPCA Administrative Order Scenario 1](#) through [Appendix H: FWPCA Administrative Order Scenario 5](#) for appropriate guidance.

B.1.d. Determination and Situation Statement

Explain the FOSCs specific determination based on the current situation.

For example:

“I have determined that such a threat may exist to the navigable waters of the Chesapeake Bay. There is a significant threat of a spill of diesel fuel from the M/V [XXXX], Official number [XXXX]. On November 25, 2015 the M/V [XXXX] grounded 1.5 NM to the north of Little Creek, Virginia with approximately 100 gallons of diesel on board. You were issued a Notice of Federal Interest of an oil pollution incident on November 25, 2015 at Virginia Beach, VA. Because the oil products remaining on the vessel pose an environmental hazard, the threat of a spill may present an imminent and substantial endangerment to the public health or welfare of the United States.”

B.1.e.
Administrative
Order
Requirements

Explain what action is required or the desired result. Be specific on required removal actions and timelines for completion. Give the responsible party an understanding of what constitutes compliance with the Administrative Order. Use the following language:

“For these reasons, and under the authority referred to above, you are hereby ordered to undertake the following actions...”

For example:

- Ensure that containers are cleared by Coast Guard representative before being shipped.
- Continuously monitor for any discharge of oil from the vessel, making all required notifications for any such discharge.
- Conduct 24-hour monitoring of the spill location to ensure product remains in the containment area.

NOTE:

All Administrative Orders directing a responsible party to remove and/or cleanup oil/hazardous substances need to contain disposal requirements per reference (n), Resource Conservation Recovery Act (RCRA), Public Law 94-580.

B.1.f. Penalty
Provisions

The responsible party is subject to civil penalties and cleanup costs incurred if he/she fails to satisfy the Administrative Order requirements. Additionally, the FOSC can issue a NOFA and assume control from the responsible party. This consequence of non-compliance is communicated in the Administrative Order. Use the provided statement in the examples in [Appendix D: FWPCA Administrative Order Scenario 1](#) through [Appendix H: FWPCA Administrative Order Scenario 5](#) for appropriate guidance.

NOTE:

Changes or adjustments to the civil penalty amount are reflected in reference (o), Adjustment of Civil Monetary Penalties for Inflation, 33 C.F.R. Part 27.

B.1.g. Appeal
Process

The responsible party can request that an Administrative Order be reconsidered by the FOSC within 24 hours of issuance. Additionally, the responsible party can submit a formal written appeal to the district courts of the United States, if the FOSC does not concur with the reconsideration request.

Use the provided statement in the examples in examples [Appendix D: FWPCA Administrative Order Scenario 1](#) through [Appendix H: FWPCA Administrative Order Scenario 5](#).

B.1.h. Signature

Signature with printed name, rank, and regulatory title “Federal On-Scene Coordinator”.

Section C: Federal Water Pollution Control Act Administrative Order Scenarios

NOTE:

The example scenarios presented in this section are NOT intended as an all inclusive list nor set policy standards for when to use an Administrative Order. These scenarios present just a few of the many factors the FOSC considers when determining whether or not an Administrative Order is an appropriate compliance tool. Different facts and factors can lead to entirely different results.

NOTE:

The FOSC considers the totality of the circumstances, including the likelihood of a discharge, the risks from the discharge, environmental sensitivity, public health, economic impact, political concerns, industry safety and compliance record, amongst other things. With the aid of subject matter advisors, the FOSC always considers the primary risk first based on the situation. The FOSC uses all available tools (e.g., COTP Order) to mitigate this risk, manage, and warn whenever possible.

C.1. FWPCA Scenario 1

Situation: A container ship spills 4,000 gallons of No. 6 oil into a container hold. The vessel's master activates the vessel response plan and a local Oil Spill Removal Organization (OSRO) is hired. After the first two days of work the OSRO has slowed down and has repeatedly failed after multiple techniques to clean the vessel and containers in the hold. The lack of resources being used and how clean is clean has become a point of contention. There is pressure from the port authority and the vessel company to depart as soon as possible.

Control: Depending on the details of the ship's drainage and/or pumping systems and scheduled cargo operations, this scenario might present a threat of discharge and therefore the use of an Administrative Order would be appropriate. The Administrative Order can address concerns for isolating drains, valves or piping to the cargo hold so the oil is not inadvertently pumped over the side. Additionally, the Administrative Order can require the vessel to provide an oil removal plan from the cargo hold, procedures for preventing a discharge from contaminated containers being offloaded, and decontamination procedures for containers once moved to the pier. See [Appendix D: FWPCA Administrative Order Scenario 1](#) for example letter.

Additional Considerations: Coast Guard personnel addresses the cause of the oil spilling into the cargo hold, classification society input, and safety concerns with No. 6 oil in the cargo hold. The Sector/MSU prevention department engages in the investigation and response and all appropriate authorities used to safely and efficiently mitigate the substantial threat of discharge.

C.2. FWPCA Scenario 2

Situation: A fishing vessel has run aground on its way out of the port. The vessel has 1,000 gallons of diesel on board. The owner of the vessel has plugged the vents and set down an anchor, however a storm is moving towards the area and is expected ashore within three days. The owner has called several salvage companies but has yet to provide a plan or a contract. The owner seems reluctant to commit to taking action and has complained that he doesn't have enough money.

Control: An Administrative Order is needed to compel compliance from the responsible party. It is not clear if this is an issue where the responsible party is unwilling or unable. An Administrative Order clearly establishes Coast Guard expectations and timelines for the responsible party to take appropriate actions to prevent a discharge. In a scenario such as this, time is critical. It is important to try to get the responsible party to take action, however the FOOSC should consider potential actions (i.e., hiring contractors to remove the oil) if the responsible party fails to comply with the Administrative Order. See [Appendix E: FWPCA Administrative Order Scenario 2](#) for example letter.

Additional Considerations: COTP could also be concerned with potential navigation hazards that could require marking, as well as plans to ensure the vessel does not potentially impact a navigable channel when it is removed.

C.3. FWPCA Scenario 3

Situation: A facility has discharged an estimated 500 gallons of crude oil into the harbor during a transfer. The facility representative refuses to take action and stated "he/she would do nothing beyond dumping a bottle of dishwashing soap on it and the spill will not even be here tomorrow." He/she has made all notifications and minimum required actions as per their facility response plan, however the facility is located in a natural collection point and recoverable product is still observed. The facility representative was issued a NOFI but is not taking it seriously.

Control: An Administrative Order helps educate the responsible party of his/her responsibilities and become more aware of the seriousness of the discharge, as well as clearly document Coast Guard desired action. See [Appendix F: FWPCA Administrative Order Scenario 3](#) for example letter.

Additional Considerations: Since this scenario presents an active discharge situation with an unwilling responsible party, timely action is imperative. The FOSC could open the National Pollution fund and initiate the immediate protection and cleanup in the interim, but use the Administrative Order to provide clear requirements, timelines for mobilizing protection and recovery equipment and taking control of the response. In addition, it is extremely important to contact the servicing legal office for counsel.

C.4. FWPCA Scenario 4

Situation: During a routine vessel inspection 500 pounds of benzene was found in the vessel's secondary containment under the transfer manifold. There is concern with rain causing the product to overflow, in addition to the health hazards for the crew. The captain of the vessel has plans to remove the contaminated product after the next few port calls, three weeks from now in Brazil.

Control: Though a CERCLA Administrative Order would seem appropriate, it cannot be issued to vessels. In order to ensure that this threat is immediately handled, issue an FWPCA Administrative Order because, benzene is a hazardous substance listed per reference (j), Determination of Reportable Quantities for Hazardous Substances 40 C.F.R. Part 117. See [Appendix G: FWPCA Administrative Order Scenario 4](#) for example letter.

Additional Considerations: There are several important prevention aspects to this situation, including potential violations of containment requirements and transfer procedures. The COTP has other tools to compel compliance, including shutting down of transfer operations and restricting the vessel movement.

C.5. FWPCA Scenario 5

Situation: The M/V [XXXXXX] collided with another vessel off the coast of Dominican Republic, resulting in major damage to the hull and engine room, which necessitates a dead ship tow. The vessel has 600 metric tons of the fuel oil onboard. The vessel intends to call upon a port in your COTP Zone to offload cargo and affect repairs.

Control: Use an Administrative Order to implement control measures that could prevent or expedite the response to a discharge. Requirements such as providing transit plans and pollution mitigating plans, contracting with OSROs, and establishing a communications schedule are a few examples of appropriate control measures to issue via the Administrative Order. See [Appendix H: FWPCA Administrative Order Scenario 5](#) for example letter.

Additional Considerations: There are numerous considerations the Sector Commander takes into consideration under the situation, such as force majeure, harbors of safe refuge, and safety of the crew during transit operations. As COTP Orders do not extend beyond our territorial seas, an Administrative Order, which can be used out to 200 nautical miles, is the most appropriate tool to require control measures to prevent a potential major discharge.

Chapter 4: Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Administrative Orders

Introduction

CERCLA Administrative Orders are issued if a release or threat of a release of a hazardous substance from a facility may present imminent and substantial endangerment to public health, welfare, or the environment, under the authority of reference (b), CERCLA, 42 U.S.C. §§ 9601-9675. CERCLA Administrative Orders are not applicable to vessels. The FOOSC could issue an Administrative Order directing a facility to take specific actions to ensure effective and immediate removal of a release or to prevent a substantial threat of a release. It is a best practice to consult with the EPA when issuing a CERCLA Administrative Order.

In This Chapter

This chapter contains the following sections:

Section	Title	Page
A	Process Guide	4-2
B	Format Guide	4-5
C	CERCLA Administrative Order Scenarios	4-8

Section A: Process Guide

A.1. CERCLA Administrative Order Awareness

When writing the Administrative Order, understand the authority being used and be objective, specific, and reasonable with requirements or directions issued.

Administrative Orders are typically used when the responsible party fails to take appropriate, timely and effective action, and are an intermediary step to assuming federal control. When writing the Administrative Order, understand the authority being used and be objective, specific, and reasonable with requirements or directions issued.

Coast Guard policy is to allow the responsible party to proceed according to established plans with the responsible party taking appropriate action and acting consistent with the plans. Administrative Orders provide clear direction to the responsible party and offers an opportunity to take corrective action prior to the FOSC assuming federal control. FOSCs are highly encouraged to use Administrative Orders as a compliance tool prior to assuming federal control of the response. However, the use of an Administrative Order is not required for the FOSC to direct or assume federal control.

Under normal circumstances, the Administrative Order is issued following the NOFI and prior to assuming federal control of the cleanup via a NOFA. Templates for both NOFI and NOFA are located on the [CG-MER Portal page](#).

NOTE:

Certain limitations apply in which a removal under CERCLA cannot be undertaken. Consult reference (d), National oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300, for specific situations.

A.1.a. Draft/Sign CERCLA Order

The FOSCR drafts the Administrative Order and/or procedure as required. Conduct internal unit briefs through the chain of command to the FOSC. Once signed by the FOSC, issue the Administrative Order.

A.1.b. Issue CERCLA Order

Issue an Administrative Order to one responsible party. Refer to [Chapter 4: CERCLA Administrative Orders, Section B: Format Guide](#) for required and suggested information to include in the order.

A.1.c. Confirm Receipt	Get confirmation of receipt with the responsible party's name, date, and signature. Recommend including an acknowledgement line within the Administrative Order.
<hr/>	
A.1.d. Notification	Notify appropriate stakeholders, including local, state and federal trustees as outlined in the Area Contingency Plan, of the Administrative Order. The FOSC notifies the adjacent FOSCs if the imminent or substantial endangerment of discharge could impact their AOR to coordinate enforcement or obtain concurrence.
<hr/>	
A.1.e. Appeals Process	An Administrative Order under CERCLA can be reconsidered by the FOSC, at the request of the responsible party. In each Administrative Order, include a statement notifying the responsible party of the opportunity to request reconsideration. Rapidly process the request by notifying the chain of command and preparing a reply to the requester.
<hr/>	
A.1.f. Monitor and Track	Monitor the situation to determine if the responsible party is complying with the Administrative Order. For situational awareness, coordinate with the Sector Command Center.
<hr/>	
A.1.g. Completion of Actions	<p>The Administrative Order is typically no longer in effect for one of the following reasons:</p> <ul style="list-style-type: none"> • The responsible party has completed the requirements of the Administrative Order to the satisfaction of the FOSC; or, • The FOSC assumes federal control of the cleanup; or, • The FOSC determines the cleanup is no longer necessary. <p>Ensure the chain of command and Sector Command Center are briefed regularly regarding the responsible party's actions as required by the Administrative Order. Enter any cancellations of Administrative Orders into MISLE.</p>

A.1.h. Draft/Sign Termination of Administrative Orders The FOSCR drafts a letter terminating the Administrative Order. Once signed by the FOSC, issue the termination and have the responsible party acknowledge receipt. An example letter is located in [Appendix C: Administrative Order Termination Letter](#).

Suggested language for terminated Administrative Orders include:

“The requirements of your Administrative Order have been met and I consider this action terminated.”

A.1.i. Documentation Include a copy of the Administrative Order in the MISLE activity, unit case file, and the NPFC Incident Response and Transmittal.

Section B: Format Guide

B.1. Content Requirements

The Coast Guard business letter is the standard format for all Administrative Orders. If a situation exists that precludes the transmission or delivery of a standard Coast Guard letter to the responsible party, use other formats as appropriate (e.g., telex message for vessel located offshore).

Example Administrative Orders are included in [Appendix I: CERCLA Administrative Order Scenario 1](#) through [Appendix J: CERCLA Administrative Order Scenario 2](#). Word version examples of these Administrative Orders are available on the [CG-MER Portal](#).

B.1.a. Contact Information

Enter the name and contact information for the responsible party.

B.1.b. Subject line

Enter a subject line with the name of the responsible party or subject. Follow examples in [Appendix I: CERCLA Administrative Order Scenario 1](#) through [Appendix J: CERCLA Administrative Order Scenario 2](#) for appropriate guidance.

NOTE:

Best practice is to use an internal numbering system similar to COTP for Administrative Orders. These can be used for tracking purposes at the unit level.

B.1.c. Authority

Start all Administrative Orders with a paragraph that lists the appropriate legal and regulatory authorities for issuing and enforcing Administrative Orders. Use the provided statement in the examples [Appendix I: CERCLA Administrative Order Scenario 1](#) through [Appendix J: CERCLA Administrative Order Scenario 2](#) for appropriate guidance.

B.1.d. Determination and Situation Statement

Explain the FOOSC's specific determination based on the situation present.

For example:

“I have determined that such an endangerment may exist at Hiatus [XXXX] in Hiatusport, DE. There was a significant release of ethyl chloride into the waterway. On June 12, 2015 [XXXX] released approximately 6,000 pounds of ethyl chloride. You were issued a Notice of Federal Interest of a hazardous substance incident on June 13, 2015. Because the release poses an environmental hazard, the release may present an imminent and substantial endangerment to the public health or welfare of the United States.”

B.1.e.
Administrative
Order
Requirements

Explain what action is required or the desired result. Be specific on required removal actions and timelines for completion. Give the responsible party an understanding of what constitutes compliance with the Administrative Order.

Use the following language:

“For these reasons, and under the authority referred to above, you are hereby ordered to undertake the following actions...”

For example:

- Submit a pollution mitigation plan to secure the leak from the damaged container.
- Immediately hire an oil spill removal organization to locate and remove the four drums.

NOTE:

All Administrative Orders directing a responsible party to remove and/or cleanup oil/hazardous substances need to contain disposal requirements per reference (n), Resource Conservation Recovery Act (RCRA), Public Law 94-580.

B.1.f. Penalty
Provisions

The responsible party is subject to civil penalties and cleanup costs incurred if he/she fails to satisfy Administrative Order requirements. Additionally, the FOOSC can issue a NOFA and assume control from the responsible party. This consequence of non-compliance is communicated in the Administrative Order. Use the provided statement in the examples [Appendix I: CERCLA Administrative Order Scenario 1](#) through [Appendix J: CERCLA Administrative Order Scenario 2](#) for appropriate guidance.

NOTE:

Changes or adjustments in the civil penalty amount are reflected in reference (o), Adjustment of Civil Monetary Penalties for Inflation, 33 C.F.R. Part 27.

B.1.g. Appeal
Process

The responsible party can request that an Administrative Order be reconsidered by the FOSC within 24 hours of issuance. Additionally, the responsible party can submit a formal written appeal to the respective Coast Guard District Commander, within 15 days of issuance, if the FOSC does not concur with the reconsideration request.

Use the provided statement in the examples in [Appendix I: CERCLA Administrative Order Scenario 1](#) through [Appendix J: CERCLA Administrative Order Scenario 2](#).

B.1.h. Signature

Signature with printed name, rank, and regulatory title “Federal On-Scene Coordinator”.

Section C: CERCLA Administrative Order Scenarios

NOTE:

The example scenarios presented in this section are NOT intended as an all inclusive list nor set policy standards for when to use an Administrative Order. These scenarios present just a few of the many factors the FOSC considers when determining whether or not an Administrative Order is an appropriate compliance tool. Different facts and factors can lead to entirely different results.

NOTE:

The FOSC considers the totality of the circumstances, including the likelihood of a discharge, the risks from the discharge, environmental sensitivity, public health, economic impact, political concerns, industry safety and compliance record, amongst other things. With the aid of subject matter advisors, the FOSC always considers the primary risk first based on the situation. The FOSC uses all available tools (e.g., COTP Order) to mitigate this risk, manage, and warn whenever possible.

C.1. CERCLA Scenario 1

Situation: During transfer operations, a intermodal tank container with 20,000 pounds of ethyl chloride has broken free from its support structure and fallen into the waterway. The valves were damaged during the incident and the tank continues to release ethyl chloride into the environment. The facility activates its facility response plan and conducts proper response to the release. However, several response agencies are questioning whether the facility's fixed air monitoring system is sufficient to ensure the protection of the nearby community until the release can be secured. Based on the high winds and close proximity, additional air monitoring is necessary.

Control: An Administrative Order is used not only to establish techniques and goals, but also to bolster safety strategies during the ongoing release. See [Appendix I: CERCLA Administrative Order Scenario 1](#) for example letter.

Additional Considerations: In addition to responding to the ongoing release and ensuring public safety, the COTP will be concerned with determining the cause of the incident and evaluating if any waterway closures or restrictions are necessary.

**C.2. CERCLA
Scenario 2**

Situation: A facility loses four drums of fluoroacetamide that were sitting on the dock and fell into the water during a storm. The facility does not seem bothered with the drums, and claims that the product is contained within the drums. The facility states that they will recover the drums when time allows.

Control: An Administrative Order is appropriate to make the facility take prompt action to find and remove the drums from the water. These drums full of fluoroacetamide in the water constitute a release under the definition of release per reference (b), CERCLA, 42 U.S.C. §§ 9601-9675. Although the product is in the drums, it still poses a substantial threat to the public and environment. See [Appendix J: CERCLA Administrative Order Scenario 2](#) for example letter.

Additional Considerations: The Administrative Order gives specific timelines for the responsible party to initiate recovery of the drums. Also, depending on the type of drums, they pose a hazard to navigation. The COTP also considers a safety zone around the location of the drums during removal operations.

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Appendix A: Glossary and Acronyms

AOR	Area of responsibility.
C.F.R.	Code of Federal Regulations.
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act.
CERCLA Administrative Order Facility Definition	Per 42 U.S.C. §§ 9601-9675) the term facility means: (a), any building, structure, installation, equipment, pipe or pipeline, (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (b), any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.
CGTTP	Coast Guard tactics, techniques, and procedures.
COTP	Captain of the port.
CWA	Clean Water Act.
EPA	Environmental Protection Agency.
FC-P	FORCECOM TTP Division.
FMSC	Federal Maritime Security Coordinator.
FORCECOM	Force Readiness Command.
FOSC	Federal On-Scene Coordinator.
FOSCR	Federal On-Scene Coordinator Representative.
FWPCA	Federal Water Pollution Control Act.

FWPCA Administrative Order Facility Definition	Per 33 U.S.C. §§ 1251-1376 (a)(3) the term vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as means of transportation on water other than a public vessel. Per 33 U.S.C. §§ 1251-1376 (a)(10) onshore facility means any facility (including, but not limited to, motor vehicles and rolling stock)of any kind located in, on, or under, any land within the United States other than submerged land. Per 33 U.S.C. §§ 1251-1376 (a) (11) offshore facility means any facility of any kind located in, on or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, and under any other waters, other than a vessel or a public vessel.
LOD	Letter of Deviation.
MISLE	Marine Information Safety and Law Enforcement.
MSU	Marine Safety Unit.
NOFA	Notice of Federal Assumption.
NOFI	Notice of Federal Interest.
NPFC	National Pollution Funds Center.
OCMI	Officer in Charge, Marine Inspections.
OPA	Oil Pollution Act.
OSC	On-Scene Coordinator.
OSRO	Oil Spill Removal Organization.
PR	Pollution responder.
RCRA	Resource Conservation Recovery Act.
RQ	Reportable quantity.
SMC	Search and Rescue Mission Coordinator.

TTP Tactics, techniques, and procedures.

U.S.C. United States Code.

USCG United States Coast Guard.

VTS Vessel traffic services.

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Appendix B: Sector Commander Toolkit

Title	IF you need to gain compliance regarding:	THEN pursue:	References
COTP	Person or vessel movement control or operations	COTP Order	33 C.F.R. § 6 33 C.F.R. § 160 Subpart B MSM Volume VI 1.E MLEM 1.A.3.f
COTP	Emergency/emergent facility operations or controls	COTP Order	33 C.F.R. § 6 33 C.F.R. § 160.109 MSM Volume VI 1.E MLEM 1.A.3.f
COTP	Facility inspection deficiency	Facility Inspection Requirements Form (CG-835)	33 C.F.R. §105, 126, 127, 154, 156
COTP	Permit vessel to transit port without navigation safety equipment	Letter of Deviation (LOD)	33 C.F.R. § 164.55
COTP	Control transfers of oil or hazardous materials	Suspension Order	33 C.F.R. § 156.112 33 C.F.R. § 156.120
FOSC	Direct oil response actions to the responsible party	Administrative Order	40 C.F.R. Part 300 specific for oil under the Clean Water Act.
FOSC	Direct hazardous substance response actions to responsible party	Administrative Order	40 C.F.R. Part 300 specific for hazardous substance incident under CERCLA.
COTP	Control or direct vessel(s) in a VTS operating area	VTS Measure or VTS Direction	33 C.F.R. § 161.11 MSM Volume VI, 1.E.2.g
OCMI	Deficiency with material condition or lifesaving equipment on an inspected U.S. flag vessel	Facility Inspection Requirements Form (CG-835)	46 C.F.R. § 1-199 MSM Volume II

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Appendix C: Administrative Order Termination Letter



Commander
United States Coast Guard
Sector Hiatusport

400 Sand Island Parkway
Hiatusport, DE 90819
Phone: 555-555-5555

16450
[Insert Date]

[Insert Name of Responsible Party]

[XXXXXX]

7040 Washing St.
Hiatusport, DE 90819

Re: ADMINISTRATIVE ORDER: [XXXXXX]

Dear [Insert Name of Responsible Party]:

On November 3, 2015 I issued the attached Administrative Order. Effective this date you have complied with all of the requirements [**describe actions taken that fulfilled the requirements of the Administrative Order**] imposed by that Order. Therefore, the Administrative Order [XXXXXX] is hereby terminated. I encourage you to determine the original cause of this incident so it can be avoided in the future.

Please address all inquiries concerning this matter to [Insert Name and Title] at (555) 555-5555.

Sincerely,

[Insert Name]
Captain, U.S. Coast Guard
Federal On-Scene Coordinator

Acknowledgement: _____
Name

Date

Signature: _____
Name

Date

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Appendix D: FWPCA Administrative Order Scenario 1



Commander
United States Coast Guard
Sector Hiatusport

400 Sand Island Parkway
Hiatusport, DE 90819
(555) 555-5555

16450

[Insert Date]

[Insert Name of Responsible Party]

M/V [XXXXXX]
7040 Washing St.
Hiatusport, DE 96025

Re: ADMINISTRATIVE ORDER: M/V [XXXXXX]

Dear [Insert Name of Responsible Party]:

Pursuant to 33 U.S.C. §§ 1251-1376 (c), 33 U.S.C. §§ 1251-1376 (e)(1)(B), 33 C.F.R. § 1.01-80, and 40 C.F.R. Part 300.130(d), I have determined that there may be an imminent and substantial threat to the public health or welfare or the environment because of an actual or threatened discharge/release of oil or designated hazardous substance from a facility/vessel.

I have determined that such a threat may exist to the navigable waters of the Hiatusport Bay. There is a significant threat of a spill of No. 6 oil from the M/V [XXXXXX], Official number [XXXX]. On November 1, 2015 the M/V [XXXXXX] had an equipment failure discharging an estimated 4,000 gallons of No. 6 oil into container holds 2 and 3 while docked at Hiatusport Commercial Terminal. You were issued a Notice of Federal Interest of an oil pollution incident on November 1, 2015. Because the oil products remaining in the hold and on the containers pose an environmental hazard, the threat of a spill may present an imminent and substantial endangerment to the public health or welfare of the United States.

For these reasons, and under the authority referred to above, you are hereby ordered to undertake the following actions:

1. Monitor continuously for any discharge of oil from the vessel, including the offload of containers affected.
2. Establish decontamination procedures including a decontamination corridor for contractors and crew members in order to prevent further spread of oil by November 3, 2015.
3. Ensure that containers are cleared by Coast Guard representative before allowing them to be shipped.
4. All spaces must be free of oil to the satisfaction of the FOOSC and effected containers by 10 November, 2015.

Under the Oil Pollution Act of 1990, the responsible party is liable for, among other things, removal costs and damages resulting from this condition. The failure or refusal to comply with this Administrative Order will eliminate any defense or entitlement to limited liability, which might otherwise be available under the Act (33 U.S.C. §§ 2701-2762). Be advised that the following may result from your failure to properly carry out the removal actions as ordered to protect the environment, public health, and welfare. The responsible party, owners, operators or persons in charge of the vessel or facility from which oil or hazardous substances are discharged are subject, under the Federal Water Pollution Control Act, to a civil penalty of up to \$40,000 per day of violation or up to three (3) times the cost incurred by the Oil Spill Liability Trust Fund. Failure to comply with the requirements of this Administrative Order may result in the federal government assuming full or partial control of removal actions.

This Administrative Order becomes effective immediately upon receipt. You may request, either orally or in writing, that I reconsider this order within 24 hours of its issuance. I may be reached for this purpose at **[address and phone]**. If you desire to appeal my decision on reconsideration, or the Administrative Order itself, you must direct the request for an appeal in writing to the district courts of the United States.

The act of requesting reconsideration or placing an appeal does not stay this order, but reviewing offices have the authority to take such action if they believe circumstances warrant it.

Please address all inquiries concerning this matter to **[Insert Name and title]** at **(555) 555-5555**.

Issued at U.S. Coast Guard Sector Hiatusport.

Sincerely,

[Insert Name]
Captain, U.S. Coast Guard
Federal On-Scene Coordinator

Acknowledgement: _____
Name Date

Signature: _____
Name Date

Appendix E: FWPCA Administrative Order Scenario 2



Commander
United States Coast Guard
Sector Hiatusport

400 Sand Island Parkway
Hiatusport, DE 90819
(555) 555-5555

16450

[Insert Date]

[Insert Name of Responsible Party]

M/V [XXXXXX]

900 Wellman Road
Hiatusport, DE 96025

Re: ADMINISTRATIVE ORDER: M/V [XXXXXX]

Dear [Insert Name of Responsible Party]:

Pursuant to 33 U.S.C. §§ 1251-1376 (c), 33 U.S.C. §§ 1251-1376 (e)(1)(B), 33 C.F.R. § 1.01-80, and 40 C.F.R. Part 300.130(d), I have determined that there may be an imminent and substantial threat to the public health or welfare or the environment because of an actual or threatened discharge/release of oil or designated hazardous substance from a facility/vessel.

I have determined that such a threat may exist to the navigable waters of the Atlantic Ocean. There is a significant threat of a spill of diesel fuel from the M/V [XXXXXX], Official number [XXXXXX]. On August 15, 2015 the M/V [XXXXXX] ran aground 1.5 NM off the Hiatusport Jetties with approximately 1,000 gallons of diesel fuel onboard. You were issued a Notice of Federal Interest of an oil pollution incident on August 16, 2015. Because the oil products remaining on the vessel pose an environmental hazard, the threat of a spill may present an imminent and substantial endangerment to the public health or welfare of the United States.

For these reasons, and under the authority referred to above, you are hereby ordered to undertake the following actions:

1. Continuously monitor for any discharge of oil from the vessel, making all required notifications for any such discharge(s).
2. Take measures to remove any discharge and to mitigate or prevent the threat of any discharge from your vessel, including all fuel, hydraulic, waste, and lubricating oil in the vessel and vessel bilges by 8 am on August 17, 2015.

Under the Oil Pollution Act of 1990, the responsible party is liable for, among other things, removal costs and damages resulting from this condition. The failure or refusal to comply with

this Administrative Order will eliminate any defense or entitlement to limited liability, which might otherwise be available under the Act (33 U.S.C. §§ 2701-2762). Be advised that the following may result from your failure to properly carry out the removal actions as ordered to protect the environment, public health, and welfare. The responsible party, owners, operators or persons in charge of the vessel or facility from which oil or hazardous substances are discharged are subject, under the Federal Water Pollution Control Act, to a civil penalty of up to \$40,000 per day of violation or up to three (3) times the cost incurred by the Oil Spill Liability Trust Fund. Failure to comply with the requirements of this Administrative Order may result in the federal government assuming full or partial control of removal actions.

This Administrative Order becomes effective immediately upon receipt. You may request, either orally or in writing, that I reconsider this order within 24 hours of its issuance. I may be reached for this purpose at [address and phone]. If you desire to appeal my decision on reconsideration, or the Administrative Order itself, you must direct the request for an appeal in writing to the district courts of the United States.

The act of requesting reconsideration or placing an appeal does not stay this order, but reviewing offices have the authority to take such action if they believe circumstances warrant it.

Please address all inquiries concerning this matter to [Insert Name and title] at (555) 555-5555.

Issued at U.S. Coast Guard Sector Hiatusport.

Sincerely,

[Insert Name]
Captain, U.S. Coast Guard
Federal On-Scene Coordinator

Acknowledgement: _____
Name Date

Signature: _____
Name Date

Appendix F: FWPCA Administrative Order Scenario 3



Commander
United States Coast Guard
Sector Hiatusport

400 Sand Island Parkway
Hiatusport, DE 90819
(555) 555-5555

16450

[Insert Date]

[Insert Name of Responsible Party]

[XXXXXX]

1487 Terminal Blvd.
Hiatusport, DE 96025

Re: ADMINISTRATIVE ORDER: [XXXXXX]

Dear **[Insert Name of Responsible Party]**:

Pursuant to 33 U.S.C. §§ 1251-1376 (c), 33 U.S.C. §§ 1251-1376 (e)(1)(B), 33 C.F.R. § 1.01-80, and 40 C.F.R. Part 300.130(d), I have determined that there may be an imminent and substantial threat to the public health or welfare or the environment because of an actual or threatened discharge/release of oil or designated hazardous substance from a facility/vessel.

I have determined that such a threat exist to the navigable waters of the Hiatus River. There is a significant spill of crude oil from **[XXXXXX]**. On March 9, 2015 **[XXXXXX]** discharged approximately 500 gallons of crude oil during a transfer. You were issued a Notice of Federal Interest of an oil pollution incident on March 9, 2015. Because the discharged oil poses an environmental hazard, the spill may present an imminent and substantial endangerment to the public health or welfare of the United States.

For these reasons, and under the authority referred to above, you are hereby ordered to undertake the following actions:

1. Immediately activate your Facility Response Plan.
2. Deploy containment boom around all collected product within one hour of receipt of this order.
3. Begin removing oil from the containment area within two hours of receipt of this order.
4. Conduct 24 hour monitoring of the spill location to ensure product remains in the containment area.

Under the Oil Pollution Act of 1990, the responsible party is liable for, among other things, removal costs and damages resulting from this condition. The failure or refusal to comply with this Administrative Order will eliminate any defense or entitlement to limited liability, which might otherwise be available under the Act (33 U.S.C. §§ 2701-2762). Be advised that the following may result from your failure to properly carry out the removal actions as ordered to

protect the environment, public health, and welfare. The responsible party, owners, operators or persons in charge of the vessel or facility from which oil or hazardous substances are discharged are subject, under the Federal Water Pollution Control Act, to a civil penalty of up to \$40,000 per day of violation or up to three (3) times the cost incurred by the Oil Spill Liability Trust Fund. Failure to comply with the requirements of this Administrative Order may result in the federal government assuming full or partial control of removal actions.

This Administrative Order becomes effective immediately upon receipt. You may request, either orally or in writing, that I reconsider this order within 24 hours of its issuance. I may be reached for this purpose at [**address and phone**]. If you desire to appeal my decision on reconsideration, or the Administrative Order itself, you must direct the request for an appeal in writing to the district courts of the United States.

The act of requesting reconsideration or placing an appeal does not stay this order, but reviewing offices have the authority to take such action if they believe circumstances warrant it.

Please address all inquiries concerning this matter to [**Insert Name and title**] at (555) 555-5555.

Issued at U.S. Coast Guard Sector Hiatusport.

Sincerely,

[Insert Name]
Captain, U.S. Coast Guard
Federal On-Scene Coordinator

Acknowledgement: _____
Name Date

Signature: _____
Name Date

Appendix G: FWPCA Administrative Order Scenario 4



Commander
United States Coast Guard
Sector Hiatusport

400 Sand Island Parkway
Hiatusport, DE 90819
(555) 555-5555

16450

[Insert Date]

[Insert Name of Responsible Party]

M/V [XXXXXX]

789 West Park Ave.

Hiatusport, DE 96025

Re: ADMINISTRATIVE ORDER: M/V [XXXXXX]

Dear **[Insert Name of Responsible Party]**:

Pursuant to 33 U.S.C. §§ 1251-1376 (c), 33 U.S.C. §§ 1251-1376 (e)(1)(B), 33 C.F.R. § 1.01-80, and 40 C.F.R. 300.130(d), I have determined that there may be an imminent and substantial threat to the public health or welfare or the environment because of an actual or threatened discharge/release of oil or designated hazardous substance from a facility/vessel.

I have determined that such a threat may exist to the navigable waters of the Hiatusport Bay. There is a significant threat of a release of benzene from the M/V [XXXXXX], Official number [XXXXXX]. On May 7, 2015 during a vessel inspection, the M/V [XXXXXX] was found to have 500 pounds of benzene under the transfer manifold inside the secondary containment. You were issued a Notice of Federal Interest of an oil pollution incident on May 7, 2015. Because the benzene remaining inside the secondary containment poses an environmental hazard, the threat of a release may present an imminent and substantial endangerment to the public health or welfare of the United States.

For these reasons, and under the authority referred to above, you are hereby ordered to undertake the following actions:

1. Monitor continuously for any release of benzene from the vessel.
2. Remove all benzene from the secondary containment and properly clean the secondary containment area. The area must be free of Benzene to the satisfaction of the Federal On-Scene Coordinator by May 09, 2015.

Under the Oil Pollution Act of 1990, the responsible party is liable for, among other things, removal costs and damages resulting from this condition. The failure or refusal to comply with this Administrative Order will eliminate any defense or entitlement to limited liability, which might otherwise be available under the Act (33 U.S.C. §§ 2701-2762). Be advised that the

following may result from your failure to properly carry out the removal actions as ordered to protect the environment, public health, and welfare. The responsible party, owners, operators or persons in charge of the vessel or facility from which oil or hazardous substances are discharged are subject, under the Federal Water Pollution Control Act, to a civil penalty of up to \$40,000 per day of violation or up to three (3) times the cost incurred by the Oil Spill Liability Trust Fund. Failure to comply with the requirements of this Administrative Order may result in the federal government assuming full or partial control of removal actions.

This Administrative Order becomes effective immediately upon receipt. You may request, either orally or in writing, that I reconsider this order within 24 hours of its issuance. I may be reached for this purpose at [address and phone]. If you desire to appeal my decision on reconsideration, or the Administrative Order itself, you must direct the request for an appeal in writing to the district courts of the United States.

The act of requesting reconsideration or placing an appeal does not stay this order, but reviewing offices have the authority to take such action if they believe circumstances warrant it.

Please address all inquiries concerning this matter to [Insert Name and title] at (555) 555-5555.

Issued at U.S. Coast Guard Sector Hiatusport.

Sincerely,

[Insert Name]
Captain, U.S. Coast Guard
Federal On-Scene Coordinator

Acknowledgement: _____
Name Date

Signature: _____
Name Date

Appendix H: FWPCA Administrative Order Scenario 5



Commander
United States Coast Guard
Sector Hiatusport

400 Sand Island Parkway
Hiatusport, DE 90819
(555) 555-5555

16450

[Insert Date]

[Insert Name of Responsible Party]

M/V [XXXXXX]
7040 Washing St.
Hiatusport, DE 96025

Re: ADMINISTRATIVE ORDER: M/V [XXXXXX]

Dear [Insert Name of Responsible Party]:

Pursuant to 33 U.S.C. §§ 1251-1376 (c), 33 U.S.C. §§ 1251-1376 (e)(1)(B), 33 C.F.R. § 1.01-80, and 40 C.F.R. 300.130(d), I have determined that there may be an imminent and substantial threat to the public health or welfare or the environment because of an actual or threatened discharge/release of oil or designated hazardous substance from a facility/vessel.

I have determined that such a threat may exist to the navigable waters of the Hiatusport Bay. On March 10, 2015, your vessel, the M/V [XXXXXX], collided with the M/V [XXXXXX] off the coast of the Dominican Republic. This incident resulted in major damage to the hull and engine room and necessitates a dead ship tow of your vessel into port. Based on the current condition of the vessel, and the fact that it has more than 600 metric tons of fuel oil onboard, it is my determination that it is a substantial threat to the public health or welfare of the United States.

For these reasons, and under the authority referred to above, you are hereby ordered to undertake the following actions:

1. Prior to entering the exclusive economic zone (EEZ), you shall identify your intended port of arrival and provide the reason associated with this decision along with a list of every other port that has been evaluated by your company and why there were determined to be inadequate.
2. Prior to entering the EEZ, you shall submit a dead ship tow plan, vessel salvage plan, and a pollution mitigation plan.
3. You shall maintain a half hour communications schedule with the Sector Hiatusport command center. Monitor continuously for any discharge of oil from the vessel,

including the offload of containers affected. Under the Oil Pollution Act of 1990, the responsible party is liable for, among other things, removal costs and damages resulting from this condition. The failure or refusal to comply with this Administrative Order will eliminate any defense or entitlement to limited liability, which might otherwise be available under the Act (33 U.S.C. §§ 2701-2762). Be advised that the following may result from your failure to properly carry out the removal actions as ordered to protect the environment, public health, and welfare. The responsible party, owners, operators or persons in charge of the vessel or facility from which oil or hazardous substances are discharged are subject, under the Federal Water Pollution Control Act, to a civil penalty of up to \$40,000 per day of violation or up to three (3) times the cost incurred by the Oil Spill Liability Trust Fund. Failure to comply with the requirements of this Administrative Order may result in the federal government assuming full or partial control of removal actions.

This Administrative Order becomes effective immediately upon receipt. You may request, either orally or in writing, that I reconsider this order within 24 hours of its issuance. I may be reached for this purpose at [address and phone]. If you desire to appeal my decision on reconsideration, or the Administrative Order itself, you must direct the request for an appeal in writing to the district courts of the United States.

The act of requesting reconsideration or placing an appeal does not stay this order, but reviewing offices have the authority to take such action if they believe circumstances warrant it.

Please address all inquiries concerning this matter to [Insert Name and title] at (555) 555-5555.

Issued at U.S. Coast Guard Sector Hiatusport.

Sincerely,

[Insert Name]
Captain, U.S. Coast Guard
Federal On-Scene Coordinator

Acknowledgement: _____
Name Date

Signature: _____
Name Date

Appendix I:

CERCLA Administrative Order Scenario 1



Commander
United States Coast Guard
Sector Hiatusport

400 Sand Island Parkway
Hiatusport, DE 90819
(555) 555-5555

16450

[Insert Date]

[Insert Name of Responsible Party]

[XXXXXX]

4000 Hiatus Drive
Hiatusport, DE 96025

Re: ADMINISTRATIVE ORDER: [XXXXXX]

Dear **[Insert Name of Responsible Party]**:

Pursuant to 42 U.S.C. §§ 9601-9675 (a) and DHS Delegation #0170 Paragraph 80, I am authorized, as the Coast Guard Federal On-Scene Coordinator, to issue orders as may be necessary to protect the public health and environment. Consistent with the provisions under 42 U.S.C. §§ 9601-9675, I may exercise this authority whenever I have determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility.

I have determined that such an endangerment may exist at **[XXXXXX]** in Hiatusport, DE. There was a significant release of ethyl chloride into the atmosphere. On June 12, 2015, a tank container with 20,000 pounds of ethyl chloride broke free from its support structure during transfer operations at the **[XXXXXX]** and fell into the waterway. Due to this incident, the valves were damaged, resulting in an ongoing release of ethyl chloride. You were issued a Notice of Federal Interest of a hazardous substance incident on June 13, 2015. Because the release poses an environmental hazard, the release may present an imminent and substantial endangerment to the public health or welfare of the United States.

For these reasons, and under the authority referred to above, you are hereby ordered to undertake the following actions:

1. Immediately begin conducting air monitoring at the facility and within a 3 mile radius of the facility. This air monitoring must be conducted in addition to your current facility's fixed air monitoring system.
2. Continue all air monitoring until directed by the Coast Guard to cease air monitoring operations and report all readings above 500 PPM.
3. Submit a pollution mitigation plan to secure the leak from the damaged container.

Under that Comprehensive Environmental, Response, Compliance and Liability Act (CERCLA), **[substance]** is a hazardous substance as defined by 42 U.S.C. §§ 9601-9675 (14).

Because [substance] is [flammable, acutely toxic, etc.], its [“release” or “threatened release”] may present an imminent and substantial endangerment to the public health or welfare or the environment. Among those who may be subjected to such an endangerment are [the waters of , the residents of, etc.]. If you willfully fail or refuse to comply with this order, you will be subject to the following sanction[s]. A fine of not more than \$37,500 for each day which failure continues may be imposed under 42 U.S.C. §§ 9601-9675 (b). Further, should you be found liable under 42 U.S.C. §§ 9601-9675 for costs incurred by the United States in responding to this incident, you may also be found liable for punitive damages for your failure without sufficient cause to provide the response action ordered above. The amount of these punitive damages will be at least equal to but no more than three (3) times the amount of those incurred costs. In addition to possible penalties for non-compliance with this order, you may be liable under 42 U.S.C. 9607(a) for the actual costs incurred by the United States in responding to the [“release” or “release threat”] referred to above. Compliance with this order does not alter your liability for government response costs incurred prior to that compliance. Failure to comply with the requirements of this Administrative Order may result in the federal government assuming full or partial control of removal actions.

This Administrative Order becomes effective immediately upon receipt. You may request, either orally or in writing, that I reconsider this order within 24 hours of its issuance. I may be reached for this purpose at [Contact Number] or at the address above. If you desire to appeal my decision on reconsideration, or the Administrative Order itself, you must direct the request for an appeal in writing to [address of District Commander] within 15 days of the issuance of this order. Should you believe that the delay inherent in presenting a written request would have a substantial adverse impact on you, you may present an oral request to the office of the district commander [telephone number of District Commander]. However, an oral request must be followed, within 5 days, by a written request, which at minimum summarizes the oral presentation. The act of requesting reconsideration does not stay this order, but reviewing offices have the authority to take such action if she/he believe circumstances warrant it.

Please address all inquiries concerning this matter to [Insert Name and title] at (555) 555-5555.

Issued at U.S. Coast Guard Sector Hiatusport.

Sincerely,

[Insert Name]
Captain, U.S. Coast Guard
Federal On-Scene Coordinator

Acknowledgement: _____
Name Date

Signature: _____
Name Date

Appendix J: CERCLA Administrative Order Scenario 2



Commander
United States Coast Guard
Sector Hiatusport

400 Sand Island Parkway
Hiatusport, DE 90819
(555) 555-5555

16450

[Insert Date]

[Insert Name of Responsible Party]

[XXXXXX]

955 Annie Street
Hiatusport, DE 96025

Re: ADMINISTRATIVE ORDER: [XXXXXX]

Dear **[Insert Name of Responsible Party]**:

Pursuant to 42 U.S.C. §§ 9601-9675 (a) and DHS Delegation #0170 Paragraph 80, I am authorized, as the Coast Guard Federal On-Scene Coordinator, to issue orders as may be necessary to protect the public health and environment. Consistent with the provisions under 42 U.S.C. §§ 9601-9675, I may exercise this authority whenever I have determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility.

I have determined that such an endangerment may exist at **[XXXXXX]** in Hiatusport, DE. There is a significant threat of a release of fluoroacetamide into the Hiatus River. On October 20, 2015 **[XXXXXX]** had 4 drums of fluoroacetamide knocked overboard from the dock due to high winds from a storm. Each drum contains 500 pounds of fluoroacetamide. You were issued a Notice of Federal Interest of a hazardous substance incident on October 20, 2015. Because the drums pose an environmental hazard, the threat of a release may present an imminent and substantial endangerment to the public health or welfare of the United States.

For these reasons, and under the authority referred to above, you are hereby ordered to undertake the following actions:

1. Immediately hire an oil spill removal organization to locate and remove the four drums.
2. Immediately notify the Coast Guard upon discovery of each drum.
3. Complete removal operations no later than 12:00 p.m. on October 22, 2015.

Under that Comprehensive Environmental, Response, Compliance and Liability Act (CERCLA), **[substance]** is a hazardous substance as defined by 42 U.S.C. §§ 9601-9675 (14). Because **[substance]** is **[flammable, acutely toxic, etc.]**, its **["release" or "threatened release"]** may present an imminent and substantial endangerment to the public health or welfare or the environment. Among those who may be subjected to such an endangerment are **[the waters of , the residents of, etc.]**. If you willfully fail or refuse to comply with this order, you

will be subject to the following sanction[s]. A fine of not more than \$37,500 for each day which failure continues may be imposed under 42 U.S.C. §§ 9601-9675 (b). Further, should you be found liable under 42 U.S.C. §§ 9601-9675 for costs incurred by the United States in responding to this incident, you may also be found liable for punitive damages for your failure without sufficient cause to provide the response action ordered above. The amount of these punitive damages will be at least equal to but no more than three (3) times the amount of those incurred costs. In addition to possible penalties for non-compliance with this order, you may be liable under 42 U.S.C. §§ 9601-9675 (a) for the actual costs incurred by the United States in responding to the [**“release” or “release threat”**] referred to above. Compliance with this order does not alter your liability for government response costs incurred prior to that compliance. Failure to comply with the requirements of this Administrative Order may result in the federal government assuming full or partial control of removal actions.

This Administrative Order becomes effective immediately upon receipt. You may request, either orally or in writing, that I reconsider this order within 24 hours of its issuance. I may be reached for this purpose at [**Contact Number**] or at the address above. If you desire to appeal my decision on reconsideration, or the Administrative Order itself, you must direct the request for an appeal in writing to [**address of District Commander**] within 15 days of the issuance of this order. Should you believe that the delay inherent in presenting a written request would have a substantial adverse impact on you, you may present an oral request to the office of the district commander [**telephone number of District Commander**]. However, an oral request must be followed, within 5 days, by a written request, which at minimum summarizes the oral presentation. The act of requesting reconsideration does not stay this order, but reviewing offices have the authority to take such action if she/he believe circumstances warrant it.

Please address all inquiries concerning this matter to [**Insert Name and title**] at (555) 555-5555.

Issued at U.S. Coast Guard Sector Hiatusport.

Sincerely,

[**Insert Name**]
Captain, U.S. Coast Guard
Federal On-Scene Coordinator

Acknowledgement: _____
Name Date

Signature: _____
Name Date