

# **REGION III REGIONAL RESPONSE TEAM GUIDANCE FOR OCEAN DUMPING DURING POLLUTION RESPONSE ACTIONS**

## **Introduction**

Federal On-Scene Coordinators (FOSC) and Unified Commands (UC) responding to pollution or the threat of pollution in the ocean and coastal water environment have been confronted either by limited disposal options or technology constraints when determining the final disposition of a stricken vessel or its cargo. The goal of the FOSC/UC has always been and always will be to identify a means to dispose of a vessel and its cargo in accordance with conventional/routine disposal methods. However, there are times in the interest of minimizing the impacts to human health, welfare, safety and the environment that emergency provisions for disposal may be required. After other disposal alternatives are investigated and found not to be acceptable to the FOSC/UC, disposal at sea or “ocean dumping” may be requested.

This document provides Region III Regional Response Team (RRT) with guidance and decision-making tools to support and assist FOSC/UC actions within the region when they are pursuing emergency ocean dumping permission to mitigate pollution or the threat of pollution when other conventional disposal methods are not viable. The information contained within this document was developed strictly to identify issues and provide consistent viewpoints and procedures to assist the FOSC/UC and alleviate potential barriers that may inhibit the decision and permit process. This is a planning and preparedness effort and we encourage Area Committee members to incorporate concepts and information from this document into their respective Area Contingency Plans. This document is structured into four sections.

- Section I defines the purpose, authority, and scope of the process;
- Section II contains a decision tree for supporting a request for an emergency ocean dumping permit from the U.S. Environmental Protection Agency (U.S. EPA);
- Section III contains a decision checklist for emergency ocean dumping permits, and;
- Section IV contains a sample emergency ocean dumping permit request letter.

## **Section I**

### **Purpose**

The purpose of this guidance is to support and enhance the FOSC/UC's ability to quickly determine the best course of action to obtain an emergency ocean dumping permit, if needed, from the U.S. EPA to support emergency removal actions under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP 40 CFR 300). This guidance outlines the decision-making process, identifies issues, suggests procedures, and provides checklists to help standardize the permit process. This guidance is a planning and preparedness tool that can be taken in part or in whole and incorporated into various Area Contingency Plans.

As mentioned earlier, the identification of conventional disposal methods and techniques to support the mitigation of a pollution event is the desired objective and is an FOSC/UC decision. No RRT concurrence or consultation is necessary unless the FOSC/UC needs the RRT's support to assist with this process. However, the RRT recognizes that in some instances the disposal of vessels, cargo, and other materials to support various phases of an FOSC/UC response to a significant oil spill or hazardous substance incident is an increasing challenge. These guidelines were developed to allow the Federal On-Scene Coordinator (FOSC) and their Commonwealth/State SOSOC partners, within the UC, to employ concepts or tools from this guidance to help or assist in the pursuit of an ocean dumping permit to:

- Prevent or substantially reduce a hazard to human life;
- Minimize the environmental impact of spilled oil or hazardous substances, or;
- Reduce or eliminate economic or aesthetic losses, which would otherwise presumably occur without the use of available resources.

### **Authority**

There are two issues that confront the FOSC/UC when engaged in emergency pollution response/removal or salvage actions when conventional disposal methods for the vessel, its cargo, and other materials are not feasible.

- **Transportation and Disposal of Vessels:** General permit provisions provided within 40 CFR 229 (General Permits) adequately allow for the transportation and disposal of vessels in emergency situations. The process is clear and will not be further discussed within this document.
- **Disposal of Cargo and Other Materials:** Emergency permits are addressed in the ocean dumping regulations at 40 CFR 220.3(c), which provides:
  - A permit may be issued to dump materials where substances prohibited as other than trace contaminants are present in greater than trace amounts:
  - After consultation with the Department of State, to determine if any of the

signatories to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (the London Convention of 1972) are likely to be affected by the emergency dumping: and

- When an emergency has been demonstrated to exist that requires such dumping. The emergency must pose an unacceptable risk relating to human health, and admit of no other feasible solution. As used in 40 CFR 220.3(c), “emergency” refers to situations requiring action with a marked degree of urgency, but is not limited to circumstances that require immediate action.
- Emergency permits may be issued for other materials, except those prohibited by 40 CFR 227.5 (Prohibited Materials), without consultation with the Department of State, when U.S. EPA determines that there exists an emergency requiring the dumping of such materials, which poses an unacceptable risk to human health and admits of no other feasible solution.
- Article V(2) of the London Convention of 1972 (LC 72) allows the issuance of emergency permits as an exception to LC 72 Article IV(1)(a) and Annex I prohibitions against the dumping of certain substances. 40 CFR 220.3(c) implements the provisions of that article. Consistent with LC 72 Article V(2), 40 CFR 220.3(c) is intended to assure that necessary consultation with the International Maritime Organization and potentially affected states take place if the material to be dumped contains greater than trace contaminants of LC 72 Annex I substances. LC 72 Annex I constituents are listed in 40 CFR 227.6.

### **Scope of Process**

This guidance outlines the process to pursue an ocean dumping permit from U.S. EPA when no other suitable alternative dumping arrangements can be identified.

- **Alternative Dumping Arrangements:** The FOSC/UC must pursue the identification of suitable alternative dumping options prior to seeking an ocean dumping permit. Landside disposal options, including recycling, landfill disposal and storage, or other conventional methods must be investigated for the subject material and determined to be infeasible due to logistical considerations and the immediacy of the threat.
- **Human Health Risk:** The FOSC/UC must document or identify the unacceptable risk to human health that the urgency of the situation poses. This threat should illustrate that the risk to human health requires, in the public’s interest, the issuance of an emergency permit as soon as possible.
- **Emergency Ocean Dumping Permit Request Criteria:** The following issues should be addressed and documented within the FOSC/UC permit request:
  - Background synopsis of the incident focusing on the operational need to mitigate the event and the proposed solution, including a discussion on the proposal for ocean dumping of cargo or other materials.

- The inability of the FOSC/UC to identify an alternative dumping arrangement suitable and feasible to support the operation given the existing threat. Included within this discussion should be the type of material involved in the permit request, the quantity proposed for dumping, and the proposed location of the dumping.
- The risk to human health should the permit not be granted. Also mention supporting threat issues such as inhibiting navigation, archeological/cultural resource protection, ecological/sensitive wildlife, etc.

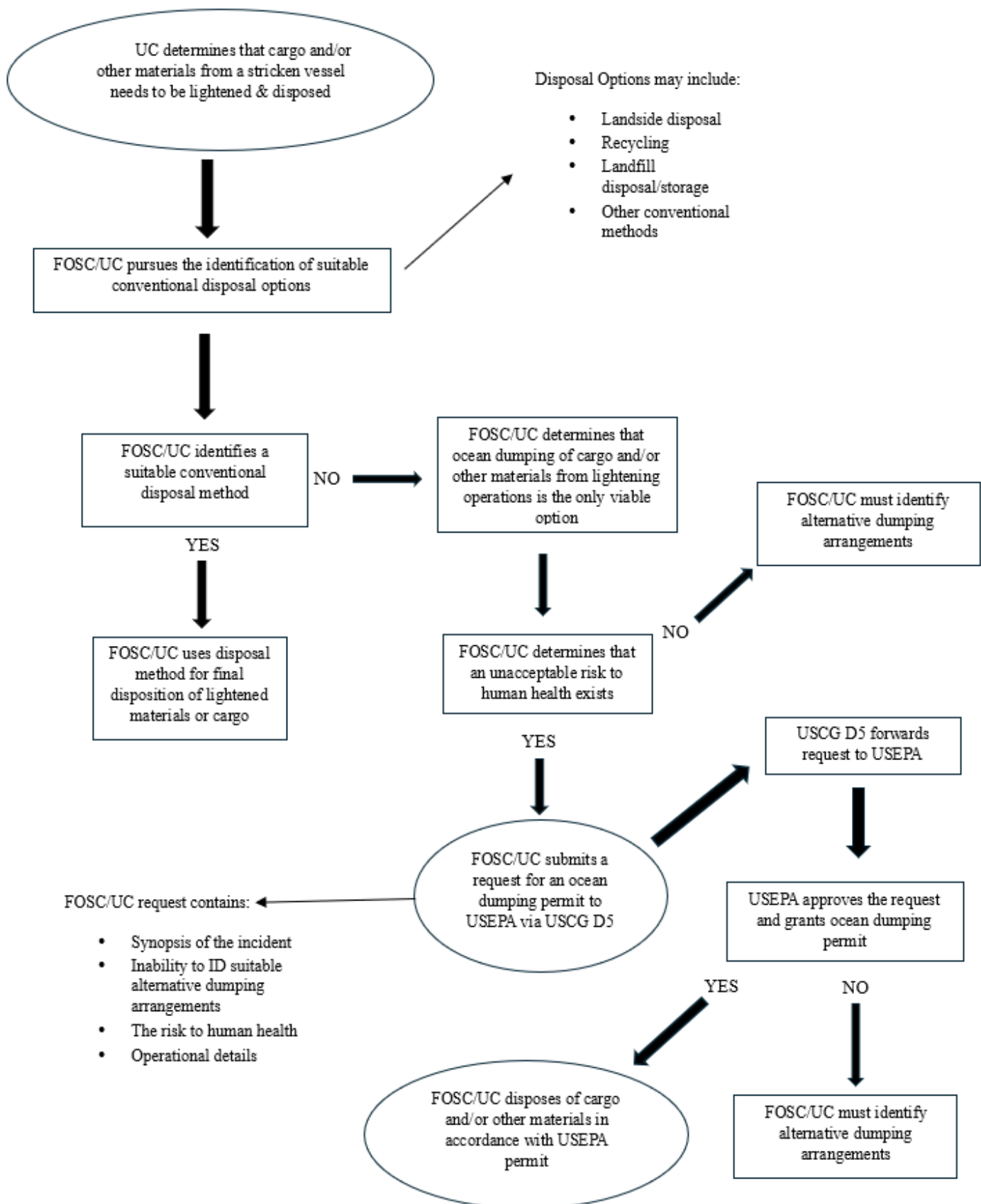
## **Section II**

### **Decision Tree for Requesting an Emergency Ocean Dumping Permit**

The decision tree for supporting a request for an emergency ocean dumping permit is as follows. The flowchart follows the various steps and decision-making processes needed to request a permit. The process addresses the following issues:

- Search for alternative dumping/disposal options;
- The risk or threat to human health;
- RRT support available to process the request;
- Verbal contact with U.S. EPA Environmental Services Division (ESD), Office of Ecological Assessment and Management (OEAM) to discuss the permit request, and;
- FOSC/UC forwarding of the request through the Fifth Coast Guard District Chief, Marine Safety Division to U.S. EPA.

## EMERGENCY OCEAN DUMPING PERMIT DECISION TREE



### **Section III**

Decision checklist for an emergency ocean dumping permit follows. The checklist is separated into four steps.

- **Step 1** - Spill, Pollutant, and Environmental Background Information
- **Step 2** - Alternative Dumping/Disposal Options
- **Step 3** - Human Health and Other Associated Risks
- **Step 4** - Emergency Ocean Dumping Permit Request

Each step allows the user to address and check-off each of the issues presented within the ‘Emergency Ocean Dumping Permit Decision Tree’. Additionally, the checklist provides points of contact and other amplifying information to streamline the process for the FOSC and UC.

**NOTE:** This checklist is designed as a job aid or tool to assist you through the permit request process. The information provided within the checklist was intended to provide you with sufficient background on the subject so the checklist would be helpful when separated from other portions of this guidance document. This tool was developed to help quicken your efforts and not hinder the process. There may be portions of the checklist that are not applicable to your specific incident or the user may not need to complete each portion of the checklist to sufficiently meet the objectives of the permit request process. Use the tool to your best advantage in whole or in part.

## Emergency Ocean Dumping Permit Operational Checklist

### Step 1: Spill, Pollutant, and Environment Background Information

#### **General Information:**

- A. Name of Incident: .....
- B. Unified Command Location: .....
- C. Responsible Party (if known): .....
- D. Date and Time of the Incident: .....
- E. Type of Incident: (check all that apply)
- ☐ Vessel Grounding
  - ☐ Vessel Fire
  - ☐ Vessel Transfer Operation
  - ☐ Explosion
  - ☐ Vehicle Accident
  - ☐ Mystery
  - ☐ Pollution Involved or Threatened
  - ☐ Other: .....
- F. Spill Location:
- G. Distance and Direction to nearest human use areas (e.g., schools, hospitals, recreation areas, surface water intakes, channels, harbors, etc.):

<u>Area</u>	<u>Distance</u>	<u>Direction</u>
.....		
.....		
.....		

#### **Pollutant/Oil Information:**

- H. Product(s) Released:
- ☐ Heavy Crude
  - ☐ Bunker C/#6 Fuel Oil
  - ☐ Medium Crude
  - ☐ Diesel/#2 Fuel Oil
  - ☐ Jet Fuels
  - ☐ Gasoline
  - ☐ Other (please specify): .....
- I. Product Details:



Product Name: .....  
Viscosity: .....  
API Gravity: .....  
Pour Point: .....

Percent Evaporation in:

24 Hours: .....  
48 Hours: .....

J. Estimated Volume of Released oil:

gals: .....  
bbls: .....

K. Estimated Volume of oil potentially released:

gals: .....  
bbls: .....

L. Release Status:

☐ Continuous  
☐ Intermittent

One Time Only, Now Stopped?

☐ Yes  
☐ No

If Continuous or Intermittent, Specify Rate of Release: ..... gals/bbls per hour:

M. Estimated Surface Area Covered: ..... acres/sqft

**Cargo Information:**

N. Cargo Type:

☐ Bulk Oil  
☐ Bulk Liquid Hazardous Substance  
☐ Dry Bulk  
☐ Containerized  
☐ Other (please specify):

O. Product Details:

Product Name: .....

P. Estimated Volume of Cargo Released or Threatened to Release: ..... (units)

Q. Estimated Volume of Cargo Potentially Released: ..... (units)

R. Release Status:

☐ Continuous

☐ Intermittent

One Time Only, Now Stopped?

☐ Yes

☐ No

If Continuous or Intermittent, Specify Rate of Release: ..... units per hour

S. Estimated Surface Area Covered: ..... acres/sqft

**Environment Information:**

T. Current Weather:

☐ Clear

☐ Partly Cloudy

☐ Overcast

☐ Rain/Snow/Fog

☐ Inversion

24 - Hour Projection: .....

48 - Hour Projection: .....

Wind Speed:

	<u>Surface</u>	<u>Forecasted</u>
Current Wind Speed (mph):	_____	_____
Direction (from):	_____	_____
24-Hour Projection (mph):	_____	_____
Direction (from):	_____	_____
48-Hour Projection (mph):	_____	_____
Direction (from):	_____	_____

**Note:** Any information from visual overflights of the slick, including estimations of slick thickness, should be included here. All additional available information pertaining to physical characterization of spilled oil should be included here.

Step 2: Alternative Dumping/Disposal Options

**Identification of Cargo and/or Other Materials for Dumping/Disposal:**

A. Cargo and or other materials to be disposed of:

Material Name: .....  
Quantity: .....  
Material Name: .....  
Quantity: .....  
Material Name: .....  
Quantity: .....  
Material Name: .....  
Quantity: .....  
Material Name: .....  
Quantity: .....

**Identification of Dumping/Disposal Options:**

B. Dumping and disposal options investigated by the FOSC/UC:

**G** Landside Disposal  
**G** Recycling  
**G** Landfill Disposal/Storage  
**G** Other Conventional Methods (please specify): .....

C. Has the FOSC/UC identified a suitable dumping/disposal option given the operational constraints or windows of opportunity of the response action?

**G** Yes ( if yes, use the selected disposal option)  
**G** No (if no, continue with Step 3)

Step 3: Human Health and Other Associated Risks

A. Has the FOOSC/UC determined that if the cargo and/or other materials are not disposed of within the established window of opportunity a human health risk is present?

**G** Yes (if yes, explain)

**G** No (if no, do not proceed with permit request)

B. What is the human health risk? .....

.....

.....

.....

.....

C. What are other risks associated with a failure to expedite the disposal process?

**G** Threat to navigation

**G** Archeological/cultural resource protection

**G** Ecological/sensitive wildlife impact

**G** Economic impact

**G** Other (please specify): .....

Step 4: Emergency Ocean Dumping Permit Request

**FOSC/Unified Command Ocean Dump Determination:**

- A. An Emergency Ocean Dumping Permit to dispose of cargo and/or other materials must be obtained through the U.S. EPA. Emergency permits are addressed in the ocean dumping regulations 40 CFR 220.3(c), which provides:
- A permit may be issued to dump materials where substances prohibited as other than trace contaminants are present in greater than trace amounts:
    - after consultation with the Department of State, to determine if any of the signatories to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (the London Convention of 1972) are likely to be affected by the emergency dumping, and;
    - when an emergency has been demonstrated to exist that requires such dumping. The emergency must pose an unacceptable risk relating to human health, and admit of no other feasible solution. As used in 40 CFR 220.3(c), “emergency” refers to situations requiring action with a marked degree of urgency, but is not limited to circumstances that require immediate action.
  - Emergency permits may be issued for other materials, except those prohibited by 40 CFR 227.5, without consultation with the Department of State, when U.S. EPA determines that there exists an emergency requiring the dumping of such materials, which poses an unacceptable risk to human health and admits of no other feasible solution.
  - Article V(2) of the London Convention of 1972 (LC 72) allows the issuance of emergency permits as an exception to LC 72 Article IV(1)(a) and Annex I prohibitions against the dumping of certain substances. 40 CFR 220.3(c) implements the provisions of that article. Consistent with LC 72 Article V(2), 40 CFR 220.3(c) is intended to assure that necessary consultation with the International Maritime Organization and potentially affected states take place if the material to be dumped contains greater than trace contaminants of LC 72 Annex I substances. LC 72 Annex I constituents are listed in 40 CFR 227.6.
- B. Has the FOSC/Unified Command decided to pursue an ocean dumping permit for the U.S. EPA?

**G** Yes (if yes, explain why below)

**G** No (if no, pursue other conventional disposal methods)

What are the recommended disposal sites offshore (if known)?

**Recommended Disposal Site:**

Location (Coordinates): \_\_\_\_\_ N \_\_\_\_\_ W

Depth of Water: ..... (units)

Location (Coordinates): ..... N ..... W

Depth of Water: ..... (units)

**Emergency Ocean Dumping Permit Request Development:**

C. Has the Unified Command addressed the following issues within request?

**G** Yes (if yes, continue checklist.)

**G** No (if no, review steps and obtain desired information.)

D. Permit Request Content:

**G** Synopsis of the incident;

**G** Inability to identify suitable alternative dumping/disposal options;

**G** Risk to human health;

**G** Other associated risks; and

**G** Operational details (material type, quantity, proposed location, etc.)

**Communications:**

E. Has the FOSC/UC, working through the Coast Guard District Marine Safety and Maintenance and Logistics Command Atlantic (MLCA) Legal Department, verbally communicated with U.S. EPA?

**G** Yes (if, yes, proceed)

**G** No (If no, please make the required contacts...using the CG District to do this for the FOSC/UC)

F. U.S. EPA Contacts for federal Region III:

**Primary Contact:**

**RRT Support**

Chief of Removal Branch  
U.S. Environmental Protection Agency  
Region III (3HS30)  
1650 Arch Street  
Philadelphia, PA 19103  
Fax: (215) 814-3254  
24-hr: (215) 814-9016/3255

**Secondary Contacts:**

**U.S. EPA Region III**

William Muir - Ocean Dumping Coordinator  
Environmental Services Division (ESD)  
Office of Ecological Assessment and Management (OEAM)  
U.S. Environmental Protection Agency  
Region III (3ES10)  
1650 Arch Street  
Philadelphia, PA 19103  
Tel: (215) 814-2741  
Fax: (215) 814-2782/2783

**U.S. EPA Headquarters**

U.S. Environmental Protection Agency  
Marine Pollution Control Branch  
Ariel Rios Building (4504T)  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
Tel: (202) 566-1288  
Fax: (202) 260-9920

**Permit Request Processing:**

G. Has the FOSC/UC forwarded the permit request to the Fifth Coast Guard District?

**G** Yes (if, yes, proceed)

**G** No (If no, please forward request to the Fifth Coast Guard District)

H. Fifth Coast Guard District contacts:

**Marine Safety Division:**

Commander (Am)  
Fifth Coast Guard District  
Federal Building  
431 Crawford Street  
Portsmouth, VA 23704-5004  
Tel: (757) 398-6637  
Fax: (757) 398-6503  
24-hr. (757) 398-6231

I. The FOSC/UC drafts the permit request and forwards the same to the Fifth Coast Guard District Marine Safety staff. A sample request letter is contained within Section IV of this guidance document.

J. Emergency Ocean Dumping Permit request is forwarded by the Fifth Coast Guard

District Marine Safety staff after consult with the MLCA Legal Department to the U.S. EPA.



## **Section IV**

### **Emergency Ocean Dumping Permit Request Sample Letter**

The following document is a sample permit request letter that can be used as a tool to complete the final step of the proceeding checklist. The letter should at a minimum include the following criteria specified within the request development portion of Step 4.

- Synopsis of the incident;
- Inability to identify suitable alternative dumping/disposal options;
- The risk to human health;
- Other associated risks; and
- Operational details (material type, quantity, proposed location, etc.).

Environmental Services Division  
Office of Ecological Assessment and Management  
Attn: Mr. William Muir  
U.S. Environmental Protection Agency  
Region III (3ES10)  
1650 Arch Street  
Philadelphia, PA 19103

Dear \_\_\_\_\_:

RE: REQUEST FOR EMERGENCY OCEAN DUMPING PERMIT

I have determined that an emergency situation exists with respect to the need to offload and dispose of the \_\_\_\_\_ on board the vessel M/V \_\_\_\_\_ which is hard aground near \_\_\_\_\_. I request an emergency permit in accordance with 40 CFR 220 to dispose of the \_\_\_\_\_ on board the M/V \_\_\_\_\_ at sea, in approximate position \_\_\_\_\_N, \_\_\_\_\_W. This permit is necessary to remove the necessary weight to refloat the vessel before it breaks-up and poses a threat to the public health and welfare.

Provide a synopsis of the situation: \_\_\_\_\_  
\_\_\_\_\_

Explain the inability of the Unified Command, to identify suitable alternative dumping/disposal options to support the operation within a specific response window:  
\_\_\_\_\_

Explain the risk to human health and other associated risks:  
\_\_\_\_\_

If this cargo/material is not off-loaded, the vessel will break apart due to the continuing weather stresses on the vessel's hull, spilling approximately \_\_\_\_\_ gallons of oil into the coastal waters of the United States. This will pose a threat to the safety of mariners, threaten commerce, and endanger the archeological, historic, and cultural resources of the area. Landside and other alternative disposal options for the cargo/material have been ruled out as unfeasible, given the deteriorating condition of the vessel and timing involved. I request your concurrence with the Unified Command's plan to dispose of the cargo/material at sea and request that an emergency permit be granted. If you have any questions regarding this matter, please contact me at the above number.

Sincerely,

\_\_\_\_\_  
Commander, U.S. Coast Guard  
Federal On-Scene Commander

Copy: CGD SEVEN (m), (dl)COMDT (G-LCL), (G-LGL), (G-MOR)