

## Coast Guard, DOT

## § 1.01-90

section 311(m)(1) of the FWPCA [33 U.S.C. 1321(m)(1)];

(6) Enter and inspect any facility in the coastal zone at reasonable times; have access to and copy any records; take samples; inspect monitoring equipment required by section 311(m)(2)(A) of the FWPCA [33 U.S.C. 1321(m)(2)(A)]; with or without warrant, arrest any person who, in the Commander's presence or view, violates a provision of section 311 of the FWPCA [33 U.S.C. 1321] or any regulation issued thereunder; and execute any warrant or other process issued by an officer or court of competent jurisdiction, as prescribed in section 311(m)(2) of the FWPCA [33 U.S.C. 1321(m)(2)(A)]; and

(7) Determine for purposes of section 311(b)(12) of the FWPCA [33 U.S.C. 1321(b)(12)]—

(i) Whether reasonable cause exists to believe that an owner, operator, or person in charge may be subject to a civil penalty under section 311(b) of the FWPCA [33 U.S.C. 1321(b)]; and

(ii) Whether a filed bond or other surety is satisfactory.

(d) Each Coast Guard official predesignated as the On-Scene Coordinator by the applicable Regional Contingency Plan is delegated authority pursuant to section 311(c) of the FWPCA [33 U.S.C. 1321(c)], subject to paragraph (e) of this section, in accordance with the National Contingency Plan and any appropriate Area Contingency Plan, to ensure the effective and immediate removal of a discharge and mitigation or prevention of a substantial threat of a discharge of oil or a hazardous substance by—

(1) Removing or arranging for the removal of a discharge and mitigating or preventing an imminent and substantial threat of a discharge at any time;

(2) Directing or monitoring all Federal, State, and private actions to remove a discharge, including issuance of orders;

(3) Determining, pursuant to section 311(c) of the FWPCA [33 U.S.C. 1321(c)], whether a discharge or a substantial threat of a discharge of oil or a hazardous substance from a vessel, offshore facility, or onshore facility is of such a size or character as to be a substantial threat to the public health or

welfare of the United States (including, but not limited to fish, shellfish, wildlife, other natural resources, and the public and private beaches and shorelines of the United States); and, if it is, directing all Federal, State, and private actions to remove the discharge or to mitigate or prevent the threatened discharge;

(4) Determining, pursuant to section 311(e) of the FWPCA [33 U.S.C. 1321(e)], that there may be an imminent and substantial threat to the public health and welfare of the United States, and, if there is, may—

(i) Determine an imminent and substantial threat as a basis for recommending referral for judicial relief; or

(ii) Act pursuant to section 311(e)(1)(B) of the FWPCA [33 U.S.C. 1321(e)(1)(B)], including the issuance of orders; and

(5) Acting to mitigate the damage to the public health or welfare caused by a discharge of oil or a hazardous substance.

(e) The authority described in paragraph (d) of this section does not include the authority to—

(1) Remove or destroy a vessel; or

(2) Take any other action that constitutes intervention under the Intervention on the High Seas Act [33 U.S.C. 1471, *et seq.*] or other applicable laws. For purposes of this section, "intervention" means any detrimental action taken against the interest of a vessel or its cargo without the consent of the vessel's owner or operator.

[CGD 91-225, 59 FR 66484, Dec. 27, 1994, as amended by CGD 96-026, 61 FR 33662, June 28, 1996; CGD 97-023, 62 FR 33361, June 19, 1997]

### § 1.01-85 Redlegation.

Except as provided in §1.01-80(e)(1) and (2), each Coast Guard officer to whom authority is granted in §1.01-80 may redelegate and authorize successive redelegations of that authority within the command under the officer's jurisdiction, or to members of the officer's staff.

[CGD 91-225, 59 FR 66485, Dec. 27, 1994]

### § 1.01-90 Commissioned, warrant, and petty officers.

Any commissioned, warrant, or petty officer of the United States Coast