

5610.1C (Procedures for Considering Environmental Impacts).

(2) Those that require a Presidential permit and approval under the International Bridge Act of 1972 (33 U.S.C. 535).

(3) Those that require the amendment of an existing permit issued by the U.S. Army Corps of Engineers.

(4) Those that raise substantial unresolved controversy involving the public, or are objected to by Federal, State, or local government agencies.

(5) Those authorized by the Commandant upon the appeal of a district commander's decision denying a permit.

(b) The Commandant delegates to each Coast Guard District Commander, with the reservation that this authority shall not be further redelegated, the authority to issue all permits for the construction, reconstruction, or alteration of bridges across navigable waters of the United States other than those specified in paragraph (a) of this section.

[CGD 80-099, 46 FR 38353, July 27, 1981; 46 FR 42268, Aug. 20, 1981, as amended by CGD 88-052, 53 FR 25119, July 1, 1988; CGD 96-026, 61 FR 33662, June 28, 1996; CGD 97-023, 62 FR 33361, June 19, 1997]

§ 1.01-70 CERCLA delegations.

(a) For the purpose of this section, the definitions in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Pub. L. 96-510), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499), apply. The Act, as amended, is referred to in this section as CERCLA.

(b) The Assistant Commandant for Marine Safety, Security and Environmental Protection (G-M) is delegated authority to take remedial action involving vessels under section 104 of CERCLA.

(c) Each Maintenance and Logistics Commander is delegated contract authority, consistent with each memorandum of understanding between the Coast Guard and the Environmental Protection Agency regarding CERCLA funding mechanisms, for the purpose of carrying out response actions pursuant to CERCLA sections 104(a), 104(b), 104(f), 104(g), 105(f), and 122.

(d) Each district commander is delegated authority as follows:

(1) Authority, pursuant to CERCLA section 106(a), to determine 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, and to secure such relief as may be necessary to abate such danger or threat through the United States attorney of the district in which the threat occurs.

(2) Authority, pursuant to section 109 of CERCLA, to assess penalties relating to violations of sections 103 (a) and (b) pertaining to notification requirements, section 108 pertaining to financial responsibility for release of hazardous substances from vessels, and section 122 pertaining to administrative orders and consent decrees.

(3) Authority, pursuant to section 108 of CERCLA, to deny entry to any port or place in the United States or to the navigable waters of the United States and detain at any port or place in the United States any vessel subject to section 108(a) of CERCLA that, upon request, does not provide evidence of financial responsibility.

(e) Subject to the provisions of Executive Order 12580, and paragraph (g) of this section, each Coast Guard official, predesignated as an On-Scene Coordinator, is delegated authority as follows:

(1) Authority, pursuant to CERCLA sections 104(a), 104(b), 104(c) and consistent with the National Contingency Plan, to remove or arrange for the removal of releases and threatened releases of hazardous substances, and of pollutants or contaminants which may present an imminent and substantial danger to the public health or welfare.

(2) Authority, pursuant to CERCLA section 104(i)(11), to take such steps as may be necessary to reduce exposure that presents a significant risk to human health, and to eliminate or substantially mitigate that significant risk to human health.

(3) Authority, pursuant to CERCLA section 106(a), to issue orders to protect the public health and welfare and the environment whenever that official determines that a release or threatened release of a hazardous substance from a

facility may present an imminent and substantial endangerment to the public health or welfare or the environment.

(4) Authority, pursuant to CERCLA section 104(e), except section 104(e)(7)(C), to enter establishments or other places where hazardous substances are or have been generated, stored, treated, disposed of, or transported from to inspect and obtain records, reports, samples and information in support of the response functions delegated in paragraphs (d), (e)(1), (e)(2), and (e)(3) of this section.

(5) Authority, pursuant to CERCLA section 122, to enter into an agreement with any person (including the owner or operator of the vessel or facility from which a release or substantial threat of release emanates, or any other potential responsible person), to perform any response action, provided that such action will be done properly by such person.

(f) Except for the authority granted in paragraphs (d)(1) and (e)(1) of this section, each Coast Guard official to whom authority is granted in this section may redelegate and authorize successive redelegations of that authority. The authority granted in paragraph (e)(3) of this section may only be re-delegated to commissioned officers.

(g) The response authority described in paragraph (e)(1) of this section does not include authority to—

(1) Summarily remove or destroy a vessel; or

(2) Take any other action that constitutes intervention under CERCLA, the Intervention on the High Seas Act (33 U.S.C. 1471 *et. seq.*), or other applicable laws. “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 88-051, 53 FR 30259, Aug. 11, 1988, as amended by CGD 91-225, 59 FR 66484, Dec. 27, 1994; CGD 96-026, 61 FR 33662, June 28, 1996; CGD 97-023, 62 FR 33361, June 19, 1997; USCG-2002-12471, 67 FR 41331, June 18, 2002; USCG-2003-14505, 68 FR 9534, Feb. 28, 2003]

§ 1.01-80 FWPCA and OPA 90 delegations.

(a) This section delegates authority to implement provisions of section 311 of the Federal Water Pollution Control

Act (FWPCA), as amended [33 U.S.C. 1321] and provisions of the Oil Pollution Act of 1990 (OPA 90). The definitions in subsection (a) of section 311 of the FWPCA and section 1001 of OPA 90 [33 U.S.C. 2701] apply.

(b) The Assistant Commandant for Marine Safety, Security and Environmental Protection, is delegated authority to require the owner or operator of a facility to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment and methods, and provide such other information as may be required to carry out the objectives of section 311 of the FWPCA [33 U.S.C. 1321].

(c) Each District and Area Commander is delegated authority within the Commander’s assigned district or area to—

(1) Deny entry to any place in the United States or to the navigable waters of the United States, and to detain at any place in the United States, any vessel subject to section 1016 of OPA 90 [33 U.S.C. 2716] that, upon request, does not provide evidence of financial responsibility;

(2) Seize and, through the Chief Counsel, seek forfeiture to the United States of any vessel subject to the requirements of section 1016 of OPA 90 [33 U.S.C. 2716] that is found in the navigable waters of the United States without the necessary evidence of financial responsibility;

(3) Assess any class I civil penalty under subsection (b) of section 311 of the FWPCA [33 U.S.C. 1321], in accordance with the procedures in subpart 1.07 of this chapter;

(4) Assess any civil penalty under section 4303 of OPA 90 [33 U.S.C. 2716a] in accordance with the procedures in subpart 1.07 of this chapter;

(5) Board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone, except for public vessels; 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