

integral inflatable balloon for retention or hemostasis. This generic type of device includes the hemostatic bag, irrigation and aspiration catheter (gastric, colonic, etc.), rectal catheter, sterile infant gavage set, gastrointestinal string and tubes to locate internal bleeding, double lumen tube for intestinal decompression or intubation, feeding tube, gastroenterostomy tube, Levine tube, nasogastric tube, single lumen tube with mercury weight balloon for intestinal intubation or decompression, and gastro-urological irrigation tray (for gastrological use).

(b) *Classification.* (1) Class II (performance standards). (2) Class I (general controls) for the dissolvable nasogastric feed tube guide for the nasogastric tube.

Effective dates. This reclassification was effective January 23, 1978. This rule becomes effective on February 6, 1984.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: December 12, 1983.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 84-157 Filed 1-4-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 1 and 153

[CGD 83-009]

Delegation of Authority Under CERCLA

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These rules delegate authority to Coast Guard officials to perform pollution response functions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). This law provides authority to respond to releases of hazardous substances, pollutants, and contaminants into the environment. These delegations will allow field commands to respond rapidly to releases from vessels and facilities in the coastal zone.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Glenn A. Wiltshire; 202-426-9568.

SUPPLEMENTARY INFORMATION: Since these rules relate to agency management, procedure, and practice, notice and comment are unnecessary and they may be made effective upon publication in the Federal Register.

CERCLA (Pub. L. 96-510; 94 Stat. 2767; 42 U.S.C. 9601) provides authority to respond to releases of hazardous substances, pollutants, and contaminants into the environment. The President delegated to the Secretary of Transportation the authority under CERCLA to respond to releases in the coastal zone (E.O. 12318). The coastal zone is defined in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) at 40 CFR 300.6 (47 FR 31203). This zone includes all U.S. waters subject to the tide, U.S. waters of the Great Lakes, specified ports and harbors on the inland rivers, waters of the contiguous zone, other waters of the high seas subject to the NCP, and the land surface and land substrata, ground waters, and ambient air proximal to those waters.

The Secretary of Transportation redelegated to the Commandant authority under CERCLA to respond to releases and threats of releases from vessels and to take immediate removal action at facilities other than hazardous waste management facilities (49 CFR 1.46(gg)). The Commandant, by internal directive dated September 24, 1982, redelegated most of this authority to District Commanders and predesignated On-Scene Coordinators. The rules in this document set out the details of the delegation.

The rules include one additional delegation not included in the directive of September 24, 1982. The Chief, Office of Marine Environment and Systems at Coast Guard Headquarters is delegated authority to take remedial action involving vessels. This authority is being retained in Coast Guard Headquarters because of coordination required with the Environmental Protection Agency (EPA) when carrying out responsibilities under this delegation.

These rules also include one modification to the directive of September 24, 1982. That directive allowed OSCs to take action that constituted intervention as long as it did not involve destroying a vessel. "Intervention" means detrimental action taken against the interest of a vessel or its cargo without the consent of the vessel's owner or operator. Section 1.01-70(f) of these rules reserves all intervention authority to the Commandant. The Commandant is reserving intervention authority because of the severe impact that its exercise can have on specific private interests. Also, this authority is complex in that it can be exercised under laws other than CERCLA. The other laws include the Intervention on the High Seas Act (33

U.S.C. 1471 et seq.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321).

The Commandant is retaining CERCLA authority to (1) deny entry to and detain in port vessels that do not have certification of financial responsibility, (2) enter into contracts and cooperative agreements with States and political subdivisions for response actions, and (3) utilize emergency procurement powers. These authorities are being retained pending development of implementing regulations and procedures.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of Information, Penalties.

33 CFR Part 153

Hazardous substances, Oil pollution.

In consideration of the foregoing, Title 33, Code of Federal Regulations, is amended as follows:

PART 1—GENERAL PROVISIONS

1. A new § 1.01-70 is added to read as follows:

§ 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) apply. The Act is referred to in this section as CERCLA.

(b) The Chief, Office of Marine Environment and Systems, is delegated authority to take remedial action involving vessels under Section 104 of CERCLA.

(c) Each District Commander is delegated—

(1) Contract authority for the purpose of carrying out response actions pursuant to CERCLA sections 104(a), 104(b), 104(f), and 104(g), and consistent with each memorandum of Understanding between the Coast Guard and the Environmental Protection Agency (EPA) regarding CERCLA funding mechanisms; and

(2) 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 in the District where the threat occurs.

(d) Subject to paragraph (f) of this section, the provisions of Executive Order 12316 of August 14, 1981, and the provisions of 49 CFR 1.46(gg), each Coast Guard official predesignated as an On-Scene Coordinator by the applicable Regional Contingency Plan is delegated authority—

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

(2) Pursuant to section 106(a) of CERCLA, to issue orders to protect the public health and welfare and the environment whenever they determine 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; and

(3) Pursuant to section 104(e) of CERCLA, except for section 104(e)(2)(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 response actions delegated under paragraphs (d)(1) and (d)(2) of this section.

(e) Coast Guard officials to whom authority has been delegated may redelegate and authorize successive redelegations of that authority within commands under their jurisdiction with the following exceptions:

(1) The authorities granted in paragraphs (c)(2) and (d)(1) of this section shall not be redelegated.

(2) The authority granted in paragraph (d)(2) of this section shall only be redelegated to commissioned officers.

(f) The response authority described in paragraph (d)(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.

2. An authority citation for § 1.01-70 is added to read as follows:

(Pub. L. 96-510, 94 Stat. 2796 (42 U.S.C. 9615); E.O. 12316 (46 FR 42237); and 49 CFR 1.46(gg))

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

3. A new § 153.109 is added to read as follows:

§ 153.109 CERCLA delegations.

The delegations under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) are published in § 1.01-70 of this chapter.

4. An authority citation for § 153.109 is added to read as follows:

(Pub. L. 96-510, 94 Stat. 2796 (42 U.S.C. 9615), E.O. 12316 (46 FR 42237); and 49 CFR 1.46(gg))

Dated: December 29, 1983.

J. S. Gracey,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 84-272, Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD3 82-036]

Drawbridge Operation Regulations; Passaic River, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Bergen, Hudson, and Essex Counties, New Jersey, the Coast Guard is changing the regulations governing the Jackson Street, Bridge Street, Clay Street, and Avondale bridges at various locations across the Passaic River. Notice of opening must be given prior to 2:30 a.m. for an opening from 3 a.m. to 8:30 a.m., and prior to 2:30 p.m. for an opening from 4:30 p.m. to 7 p.m. This change is being made because of the minimal number of openings requested during the effective hours, and because of the overall decrease in bridge openings since 1976. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on February 6, 1984.

FOR FURTHER INFORMATION CONTACT:

William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668-7994.

SUPPLEMENTARY INFORMATION: On August 25, 1983, the Coast Guard published a proposed rule (48 FR 38654) concerning this amendment. The Commander Third Coast Guard District, also published this proposal as a Public

Notice dated September 11, 1983. In each notice interested persons were given until October 11, 1983 to submit comments.

Drafting Information: The drafters of this rule are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

Discussion of Comments: No comments were received in response to either the Notice of Proposed Rulemaking or public notice on this action. Minimal impact is expected to occur as a result of these regulations because provisions have been made for openings during all hours of the day. No draft or final evaluation has been prepared because of minimal economic impact of these regulations. This is because no economic impact on existing operations will occur.

Economic Assessment and Certification: These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Regulations: In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by renumbering § 117.200(a)(4)(i) through (viii) as (a)(4)(ii) through (ix) respectively, and adding a new § 117.200(a)(4)(i) to read as follows:

§ 117.200 Newark Bay, Passaic and Hackensack Rivers, N.J., and their navigable tributaries; bridges

(a) * * *

(4) * * *

(i) Jackson Street Bridge, mile 4.6, Bridge Street Bridge, mile 5.6, Clay Street Bridge, mile 6.0 at Newark and Kearney, and Avondale Bridge, mile 10.7 at Lyndhurst, all crossing the Passaic River. The draws shall open on signal except that notice must be given prior to 2:30 a.m. for openings between 3:00 a.m. and 8:30 a.m., and notice must be given

prior to 2:30 p.m. for openings between 4:30 p.m. and 7:00 p.m. The bridges shall open at all times as soon as possible for passage of a public vessel of the United States.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: December 19, 1983.

W. E. Caldwell,

*Vice Admiral, Coast Guard Commander,
Third Coast Guard District.*

[FR Doc. 84-252 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 153

[CGD 83-009A]

Delegation of Authority Under the FWPCA

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These rules delegate authority, with certain limitations, to designated Coast Guard officials to remove oil and hazardous substances that pose a substantial threat of discharge into U.S. waters, shorelines, or other prescribed areas. This authority was recently delegated to the Commandant. Existing rules provide delegated authority to respond only to actual discharges. This new delegation is needed to provide effective Coast Guard response to substantial threats of oil and hazardous substance discharges.

EFFECTIVE DATE: February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Glenn A. Wiltshire; 202-426-9568.

SUPPLEMENTARY INFORMATION: Since these rules relate to agency management, procedure, and practice, notice and comment are unnecessary and they may be made effective upon publication in the *Federal Register*.

Section 311(c)(1) of the Federal Water Pollution Control Act (FWPCA), Pub. L. 92-500; 86 Stat. 862; 33 U.S.C. 1321, provides authority to respond to discharges of oil and hazardous substances into navigable waters of the United States, adjoining shorelines, and into or upon the waters of the contiguous zone. This authority was delegated to the Secretary of Transportation in Executive Order 11735, and redelegated to the Commandant in 49 CFR 1.46(m). The Commandant delegated certain FWPCA authority to designated Coast Guard officials. This authority is set out in 33 CFR 153.105.

Section 311(c)(1) of the FWPCA was amended in 1977 to:

a. Authorize response to substantial threats of oil or hazardous substance discharges; and

b. Extend the area of jurisdiction to include discharges and threats of discharge—

(1) in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or

(2) which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States, including resources under the Fishery Conservation and Management Act of 1976.

The President delegated this expanded Section 311(c)(1) authority to the Secretary of Transportation in Executive Order 12418 of May 5, 1983 (48 FR 20891). The Secretary of Transportation redelegated this authority to the Commandant in 49 CFR 1.46(m) on September 27, 1983 (48 FR 44080).

Paragraphs § 105.105 (c), (d)(1), and (d)(2) of these rules restate the existing delegation to respond to oil and hazardous substance discharges. The remaining portions of these rules redelegate to Coast Guard officials predesignated as On-Scene Coordinators the authority in Section 311(c)(1), as amended, to respond to substantial threats of discharge as well as actual discharges. Paragraph § 153.105(e) limits the exercise of this authority to actions that do not constitute intervention. "Intervention" means action detrimental to the interest of a vessel or its cargo that is taken without the consent of the vessel's owner or operator.

These rules also remove paragraph § 153.105(b)(1) which delegated Section 311(d) authority to summarily remove or destroy a vessel involved in a marine disaster that has created a substantial threat of a pollution hazard. This authority is being reserved to the Commandant. It was previously delegated to the Chief, Office of Marine Environment and Systems. Actions taken under this authority would normally constitute intervention.

The Commandant is reserving intervention authority because of the severe impact that its exercise can have on specific private interests. Also, this authority is complex in that it can be exercised under laws other than the FWPCA. The other laws include the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (46 U.S.C. 9601 et seq.).

List of Subjects in 33 CFR Part 153

Hazardous substances, Oil pollution.

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

In consideration of the foregoing, Part 153 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 153 is revised to read as follows:

AUTHORITY: Sec. 311 (j)(1)(A) and (m), 86 Stat. 862 (33 U.S.C. 1321 (j)(1)(A) and (m)); secs. 2, 5, and 7, E.O. 11735 (38 FR 21243) as amended by E.O. 12418 (48 FR 20891); 49 CFR 1.45(b) and 1.46 (l) and (m) (48 FR 44080), unless otherwise noted.

2. Section 153.105 of Part 153 of Title 33, Code of Federal Regulations, is amended by removing paragraph (b)(1), revising paragraph (c), and adding new paragraphs (d) and (e) to read as follows:

§ 153.105 Delegations.

- (b) * * *
- (1) Reserved
- (2) * * *
- (3) * * *

(c) Pursuant to paragraph (d) of this section and Section 311(c)(1) of the Act, each Coast Guard official predesignated as On-Scene Coordinator by the applicable Regional Contingency Plan is delegated authority, subject to paragraph (e) of this section, to remove or arrange for the removal of any oil or hazardous substance unless the official determines that the removal is being done properly by the owner of the vessel or facility from which the discharge or threat of discharge occurs.

(d) The authority in paragraph (c) may be exercised whenever any oil or hazardous substance is discharged, or there is a substantial threat of such discharge—

(1) Into or upon the navigable waters of the United States or adjoining shorelines;

(2) Into or upon the waters of the contiguous zone;

(3) In connection with activities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); or

(4) Which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States, including resources under the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

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

(1) Summarily remove or destroy a vessel; or