

## § 1.01-85

(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; USCG-2002-12471, 67 FR 41331, June 18, 2002]

### § 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 Guard may be authorized to carry out the functions delegated to superior officials under §§ 1.01-1, 1.01-20, 1.01-30, 1.01-70, and 1.07-80, or redelegated under § 1.01-85, within the jurisdiction of the cognizant official. They will do so under the supervision and general direction of that official.

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

## Subpart 1.05—Rulemaking

**AUTHORITY:** 5 U.S.C. 552, 553, App. 2; 14 U.S.C. 2, 631, 632, and 633; 33 U.S.C. 471, 499; 49 U.S.C. 101, 322; Department of Homeland Security Delegation No. 0170.1.

**SOURCE:** CGD 95-057, 60 FR 34148, June 30, 1995, unless otherwise noted.

### § 1.05-1 Delegation of rulemaking authority.

(a) The Secretary of Homeland Security is empowered by various statutes to issue regulations regarding the functions, powers and duties of the Coast Guard.

(b) The Secretary of Homeland Security has delegated much of this authority to the Commandant, U.S. Coast

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Guard, including authority to issue regulations regarding the functions of the Coast Guard and the authority to redelegate and authorize successive redelegations of that authority within the Coast Guard.

(c) The Commandant has reserved the authority to issue any rules and regulations determined to be significant under Executive Order 12866, Regulatory Planning and Review.

(d) The Commandant has redelegated the authority to develop and issue those regulations necessary to implement laws, treaties and Executive Orders to the Assistant Commandant for Marine Safety, Security and Stewardship (CG-5). The Commandant further redelegates this same authority to the Director, National Pollution Fund Center (Director, NPFC) for those regulations within the Director, NPFC area of responsibility.

(1) The Assistant Commandant for Marine Safety, Security, and Stewardship may further reassign the delegated authority of this paragraph to:

(i) Any Director within the CG-5 Directorate as appropriate; or

(ii) Any other Assistant Commandant as appropriate.

(2) The authority redelegated in paragraph (d) of this section is limited to those regulations determined to be nonsignificant within the meaning of Executive Order 12866.

(e)(1) The Commandant has redelegated to Coast Guard District Commanders, with the reservation that this authority shall not be further redelegated, the authority to issue regulations pertaining to the following:

(i) Anchorage grounds and special anchorage areas.

(ii) The designation of lightering zones.

(iii) The operation of drawbridges.

(iv) The establishment of Regulated Navigation Areas.

(v) The establishment of safety and security zones.

(2) This delegation does not extend to those matters specified in paragraph (c) of this section or rules and regulations which have been shown to raise substantial issues or to generate controversy.

(f) Except for those matters specified in paragraph (c) of this section, the

Commandant has redelegated to Coast Guard Captains of the Port, with the reservation that this authority shall not be further redelegated, the authority to establish safety and security zones and special local regulations.

(g) The Commandant has redelegated to Coast Guard District Commanders, Captains of the Port, the Assistant Commandant for Operations, and the Assistant Commandant for Marine Safety, Security and Stewardship, the authority to make the certification required by section 605(b) of the Regulatory Flexibility Act (Sec. 605(b), Pub. L. 96-354, 94 Stat. 1168 (5 U.S.C. 605)) for rules that they issue.

(h) The Chief, Office of Regulations and Administrative Law (CG-0943), has authority to develop and issue those regulations necessary to implement all technical, organizational, and conforming amendments and corrections to rules, regulations, and notices.

[CGD 95-057, 60 FR 34148, June 30, 1995, as amended by CGD 96-026, 61 FR 33662, June 28, 1996; CGD 97-023, 62 FR 33361, June 19, 1997; USCG-2003-14505, 68 FR 9534, Feb. 28, 2003; USCG-2003-15404, 68 FR 37740, June 25, 2003; USCG-2008-0179, 73 FR 35001, June 19, 2008]

#### **§ 1.05-5 Marine Safety and Security Council.**

The Marine Safety and Security Council, composed of senior Coast Guard officials, acts as policy advisor to the Commandant and is the focal point of the Coast Guard regulatory system. The Marine Safety and Security Council provides oversight, review, and guidance for all Coast Guard regulatory activity.

[CGD 95-057, 60 FR 34148, June 30, 1995, as amended by USCG-2003-15404, 68 FR 37740, June 25, 2003]

#### **§ 1.05-10 Regulatory process overview.**

(a) Most rules of local applicability are issued by District Commanders and Captains of the Port, while rules of wider applicability are issued by senior Coast Guard officials at Coast Guard Headquarters. For both significant rulemaking (defined by Executive Order 12866, Regulatory Planning and Review) and non-significant rulemaking, other than those areas delegated to District Commanders and Captains of the Port, the regulatory process

begins when an office chief with program responsibilities identifies a possible need for a new regulation or for changes to an existing regulation. The need may arise due to statutory changes, or be based on internal review or public input. Early public involvement is strongly encouraged.

(b) After a tentative significant regulatory approach is developed, a significant regulatory project proposal is submitted to the Marine Safety and Security Council for approval. The proposal describes the scope of the proposed regulation, alternatives considered, and potential cost and benefits, including possible environmental impacts. All significant regulatory projects require Marine Safety and Security Council approval.

(c) Significant rulemaking documents must also be approved by the Commandant of the Coast Guard.

(d) If the project is approved, the necessary documents are drafted, including documents to be published in the FEDERAL REGISTER. These may include regulatory evaluations, environmental analyses, requests for comments, announcements of public meetings, notices of proposed rulemakings, and final rules.

[CGD 95-057, 60 FR 34148, June 30, 1995, as amended by USCG-2003-14505, 68 FR 9534, Feb. 28, 2003; USCG-2003-15404, 68 FR 37740, June 25, 2003; USCG-2008-0179, 73 FR 35001, June 19, 2008]

#### **§ 1.05-15 Public participation.**

The Coast Guard considers public participation essential to effective rulemaking, and encourages the public to participate in its rulemaking process. Coast Guard policy is to provide opportunities for public participation early in potential rulemaking projects. Generally, the Coast Guard will solicit public input by publishing a notice of public meeting or request for comments in the FEDERAL REGISTER. Advance Notices of Proposed Rulemaking, Notices of Proposed Rulemaking, Supplemental Notices of Proposed Rulemaking, and Interim Rules will usually provide 90 days, or more if possible, after publication for submission of comments. This time period is intended to allow interested persons the