

Auxiliary Marine Safety Administrative and Management Qualification

Section 9: Assignment to Duty and USCG Orders

Learning Objectives

Upon completion of this section, the member will be able to:

- 1.0 Define the terms “Assignment to Duty” and “USCG Orders”.
- 2.0 Explain the difference between the two terms.
- 3.0 Define “Order Issuing Authority” (AOR).
- 4.0 Discuss the Sector versus the Auxiliary as “Order Issuing Authority” (AOR).
- 5.0 Find the information about both types of authorization in the Auxiliary Manual (AUXMAN) and the authorities for each.
- 6.0 Discuss the purpose of both Assignment to Duty and USCG Orders.
- 7.0 Explain how both USCG orders and Assignment to Duty are provided and by whom; discuss the documentation for each and why this is so important.
- 8.0 Discuss the types of MS/MEP Auxiliary missions conducted under Assignment to Duty and how those differ from MS/MEP missions requiring USCG orders.

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9.0 Assignment to Duty and USCG Orders

Note: While this information pertains to all Auxiliarists, it is particularly relevant to this qualification for the following reasons. First, the missions within MS/MEP require either Assignment to Duty by the appropriate authority (DIRAUX or the FC, VFC or FSO-MS) or orders issued by a USCG Sector or Station Order Issuing Authority (OIA). Second, an Auxiliarist acting as an MS Staff Officer needs to be aware of this information in detail since he/she may be assigning other members to MS/MEP duty only within their own Flotilla and only for MS/MEP missions that do not require USCG orders or an MS/MEP qualification other than the MSAM or MEES qualifications. Third, since it is the responsibility of the Auxiliary member to make sure that they are properly assigned to duty, either via Assignment to Duty or USCG orders, it is vital for them to have this information. The member must be qualified for such duty by knowledge or an MS/MEP qualification; general qualification is inherent in Auxiliary membership, but some MS/MEP missions require additional knowledge and training in the form of coursework or an earned qualification. The MSAM qualification is an administrative and management qualification, and this information is vital to the proper understanding of those requirements for MS/MEP missions.

9.1 Assignment to Duty and USCG Orders

“Assignment to Duty” is an official status which an Auxiliarist is in when officially assigned to duty. In many circumstances an Auxiliarist’s assignment to duty may be constituted by an Auxiliarist’s active performance of an authorized activity or mission, as long as the Auxiliarist was properly qualified for such duty and acted within the scope of employment as described below. This status can be documented either by official orders issued by a Coast Guard Order Issuing Authority (OIA) based on the member holding an MS/MEP qualification as proven by a Letter of Designation for that qualification, or by assignment to perform an authorized Auxiliary mission or activity from an appropriate duly elected or appointed Auxiliary officer. The latter authority

derives directly from the DIRAUX as OIA, who passes that authority for missions not requiring an MS/MEP qualification down through the Auxiliary Chain of Leadership to the MS Staff Officer or the FC/VFC for members of that Flotilla only. The AUXMAN specifies those Auxiliary members with authority for assigning and scheduling members to duty for non-order Auxiliary missions (See, e.g., AUXMAN Table 5-1 at pgs. 5-50). Assignment to Duty is covered in detail in Chapter 5, Section J of the Auxiliary Manual (COMDTINST M167901G). The following information pertains to the requirements and protections afforded Auxiliarists who are properly assigned to duty, whether by assignment to duty based on assignments by Auxiliary officers who have such authority for the particular mission/activity, or by assignment to duty based on official Coast Guard orders issued by an OIA.

9.2 NO "Coverage" Guarantee.

The Coast Guard Authorization Act of 1996, as amended to date (the "**1996 ACT**"), is **not** an absolute guarantee of coverage in every case. In the event of an "Incident" during an Auxiliary mission, the coverage issue in each case is decided on its own facts and circumstances. The Coast Guard investigates and makes the determination whether there is coverage for Auxiliary property loss claims; the Department of Labor ("DOL") for Auxiliary members' injury or death claims; the Department of Justice ("DOJ") for Third Party claims for property damage, injury, and/or death. Although both DOL and DOJ will take into account a Coast Guard coverage recommendation, DOL and DOJ each make an independent investigation and determination for claims within their respective jurisdiction.

9.3 Auxiliary Coverage Benefits.

In the event of an "Incident", a qualified member properly assigned to duty should have coverage during the mission and should also have benefits and liability coverage enroute (to/from) the place of the mission, provided the mission is one in which an Auxiliarist is authorized to participate by the AUXMAN. The Coast Guard and federal

government benefits and protection may include medical coverage, reimbursement for personal property loss, educational and survivors' benefits, and insulation from personal liability for injury or damage to a Third-Party person and/or property.

9.4 "Qualified for" AND "Assignment to Duty".

To be eligible for coverage benefits, an Auxiliary member must conform to the minimum rules and procedures established by the Commandant (generally found in the AUXMAN and/or the new Auxiliary Operations Policy Manual, COMDTINST M16798.3E [the "OPMAN"]). It is **extremely important** that members understand the **distinction between: (a) qualification for duty; and (b) assignment to duty**--and comply with the Assignment to Duty requirement. To be "qualified for duty," certain Auxiliary programs require that a member be "current" (specifically trained for and holding official program certification in the form of a certificate or other writing) in all certification requirements for that particular program (e.g., surface and air operations, vessel examination, instructor). Most such programs impose annual requirements (and/or periodic, mandatory workshops) to maintain currency. Other program areas may require only that the person be an Auxiliary member to be "qualified for duty." Even though a member may be **qualified** for a particular mission or activity (e.g., a VE is qualified to perform VSCs), **to be eligible for full "coverage" the member also must be Assigned to Duty** for the particular mission by the Coast Guard or an authorized Auxiliary officer as verified by appropriate documentation submitted either prior to the mission or as soon as possible following the mission.

9.5 Assignment Authority; Non-Delegation.

Orders for water, air, and vehicular Patrol operations can be issued **only** by the Coast Guard OIA – in regard to such operations, **the order is** the Assignment to Duty. The AUXMAN specifies those Auxiliary members with authority for assigning and scheduling members to duty for other Auxiliary missions (SEE, e.g., AUXMAN Table 5-1 at pgs. 5-50). At the Flotilla level, the FC, VFC, **and** the appropriate staff officer for a particular

mission/activity (e.g., the FSO-MS for an MS/MEP mission) each have Assignment to Duty authority **over members of their particular flotilla only**. That authority generally cannot be delegated to any other member. The FSO-MS can only assign members to duty for MS/MEP missions not requiring USCG orders. The Assignment to Duty should always be scheduled in writing.

9.6 DCDR and VCDR Limited Assignment Authority.

Division elected officers have limited Assignment to Duty authority. The DCDR has Assignment to Duty authority as to the VCDR, the Division Staff officers, and Flotilla Commanders--**for Division matters only**. As Division Chief of Staff, a VCDR has Assignment to Duty authority with respect to each of that Division's staff officers—**for Division matters only**. There is, however, **no** DCDR and/or VCDR Assignment to Duty authority as to any other Division member or non-Division matter.

9.7 DDCs, DSOs, ADSOs, SOs Lack of Assignment Authority; Exception.

District and Division staff officers are, by their appointment, assigned to duty and are charged with responsibility and authority for management, oversight, and coordination of matters within their appointed sphere of responsibility and activity. With **one exception**, however, **no** DDC, DSO, ADSO, or SO has any authority to assign to duty any other Auxiliary member. The **sole exception** is that a DSO has Assignment to Duty authority for the ADSOs of that particular DSO, **within** the scope of the DSO's particular Auxiliary activity (AUXMAN Para 4.G.7). In other words (with the single DSO exception), generally **only** the Flotilla "working level" Auxiliary staff officers--the FSOs--have Assignment to Duty authority.

9.8 No Assignment to Duty--No Coverage.

It is absolutely **critical** that Auxiliary members always comply with the Assignment to Duty procedures for all missions. Absent proper scheduling for and Assignment to Duty, an Auxiliary member (even though qualified for a particular mission) is: (a) **Not** eligible for government protection against liability to a Third Party; **and** (b) **Not** eligible for

benefits for the member's own personal injury or property damage loss. (For example, a VE-qualified member who "goes off on her/his own" to do VSCs **without** being assigned to duty is at risk of loss of benefits **and** personal liability exposure to Third Parties.) The AUXMAN makes this crystal clear:

"The Auxiliarist's assignment to duty is a requirement before any statutory protections are available. If the Auxiliarist is *not* assigned to duty, then the Auxiliarist cannot be characterized as a Federal employee and therefore cannot be acting within the scope of employment." (AUXMAN Para 5.J.3 at pg 5-48; emphasis added).

9.9 "Scope of Employment".

In any Incident (presuming, first, the Auxiliary member is both qualified for and Assigned to Duty), the **ultimate issue** is whether the member was acting within the scope of employment; i.e., acting within **reasonable** parameters of the assigned mission. If the member materially deviates from the authorized mission, there probably is no coverage if an Incident then results.

9.10 Burden of Proof in Assignment to Duty.

The AUXMAN (Para 5.J.3 at pg. 5-48-49) emphasizes that **the Auxiliary member bears the burden of producing evidence to support a "covered" claim** and the member should be prepared to **document** Assignment to Duty:

"The strongest possible evidence is that which demonstrates assignment to duty made prior to the incident in question. Examples may include verbal orders issued by an appropriate Coast Guard Order Issuing Authority (OIA) and documented by e-mail or unit logs prior to mission execution or written orders issued by an appropriate Coast Guard OIA and received and acknowledged by an Auxiliarist prior to mission execution. Similarly, verbal authorizations from appropriate Auxiliary elected and/or appointed leaders that are documented via telephone log, e-mail or other means, as well as written Auxiliary orders or

duty rosters for authorized activities (see Table 5-1) that are received and acknowledged by an Auxiliarist prior to mission execution. . ." (Emphasis added).