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## Title 33 —Navigation and Navigable Waters

### Chapter I —Coast Guard, Department of Homeland Security

#### Subchapter I —Anchorages

##### Part 109 General

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## PART 109—GENERAL

**Authority:** 33 U.S.C. 471; 46 U.S.C. 70034; Public Law 107-296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1.

### § 109.01 Purpose.

The purpose of the rules and regulations in this subchapter is to implement certain laws and set forth the requirements for anchorage areas.

*[CGFR 67-46, 32 FR 17727, Dec. 12, 1967, as amended by CGD 79-096, 44 FR 51585, Sept. 4, 1979; USCG-1998-3799, 63 FR 35526, June 30, 1998]*

### § 109.05 Anchorage grounds.

- (a) Section 7 of the Rivers and Harbors Act of March 4, 1915 (33 U.S.C. 471), authorizes the establishment of anchorage grounds for vessels in navigable waters of the United States whenever it is apparent that these are required by the maritime or commercial interests of the United States for safe navigation. The statute also authorizes the adoption of suitable rules and regulations regarding the establishment of anchorage grounds, which are enforced by the Coast Guard. The authority conferred by this statute was transferred to and vested in the Secretary of Homeland Security by section 902(j) of the Coast Guard and Maritime Transportation Act of 2006 (Pub. L. 109-241, 120 Stat. 516), and delegated to the Commandant of the U.S. Coast Guard in Department of Homeland Security Delegation No. 0170.1. The Commandant redelegated the authority to establish anchorage grounds to each Coast Guard District Commander as provided in 33 CFR 1.05-1(e)(1)(i).
- (b) District Commanders will, whenever matters relating to the anchorage of vessels are under consideration, ascertain the view of the District and Division Engineer, Corps of Engineers, U.S. Army, and the proper representatives of other departments likely to be interested, including the Commandant of the Naval District concerned and the medical officer in charge of the quarantine station at localities where

quarantine anchorages are involved, in order that they may arrange for suitable representation at such hearings. The views of the medical officer in charge of the quarantine station relating to the proposed location and boundaries of the quarantine anchorage will be accepted insofar as practicable and consistent with the establishment of other anchorage areas. (An Act of Congress approved July 1, 1944, as amended (42 U.S.C. 267), authorizes the Surgeon General, with the approval of the Secretary of Health, Education, and Welfare, to designate the boundaries of the quarantine grounds and quarantine anchorages for vessels which are reserved for use at each United States quarantine station.) A notice of public hearing concerning changes to the Anchorage Regulations will be issued by the District Commander and will be mailed to all known interested parties. After providing an opportunity for public participation, the District Commander will, if circumstances so warrant, issue changes to the Anchorage Regulations, or in appropriate cases forward recommendations for such changes to the Commandant.

- (c) As soon as publication has been noted in the FEDERAL REGISTER, the District Commander will publish changes to the Anchorage Regulations in the Local Notice to Mariners.

(33 U.S.C. 471, 180, 258, 322, and 499; 49 CFR 1.46(c) and 1.45(b))

[CGFR 67-46, 32 FR 17727, Dec. 12, 1967, as amended by CGD 79-096, 44 FR 51585, Sept. 4, 1979; USCG-1998-3799, 63 FR 35526, June 30, 1998; USCG-2007-27887, 72 FR 45902, Aug. 16, 2007]

## **§ 109.07 Anchorages under Ports and Waterways Safety Act.**

The provisions of section 4 (a) and (b) of the Ports and Waterways Safety Act as delegated to the Commandant of the U.S. Coast Guard in Pub. L. 107-296, 116 Stat. 2135, authorize the Commandant to specify times of movement within ports and harbors, restrict vessel operations in hazardous areas and under hazardous conditions, and direct the anchoring of vessels. The sections listed in § 110.1a of this subchapter are regulated under the Ports and Waterways Safety Act.

[CGD 3-81-1A, 47 FR 4063, Jan. 28, 1982, as amended by USCG-2003-14505, 68 FR 9535, Feb. 28, 2003]

## **§ 109.10 Special anchorage areas.**

An Act of Congress of April 22, 1940, provides for the designation of special anchorage areas wherein vessels not more than sixty-five feet in length, when at anchor, will not be required to carry or exhibit anchorage lights. Such designation is to be made after investigation, by rule, regulation, or order, the procedure for which will be similar to that followed for anchorage grounds under section 7 of the Rivers and Harbors Act of March 4, 1915, as referred to in § 109.05. The areas so designated should be well removed from the fairways and located where general navigation will not endanger or be endangered by unlighted vessels. The authority to designate special anchorage areas was transferred to and vested in the Secretary of Homeland Security by section 902(j) of the Coast Guard and Maritime Transportation Act of 2006 (Pub. L. 109-241, 120 Stat 516), and delegated to the Commandant of the U.S. Coast Guard in Department of Homeland Security Delegation No. 0170.1. The Commandant redelegated the authority to establish anchorage grounds to each Coast Guard District Commander as provided in 33 CFR 1.05-1(e)(1)(i).

[USCG-2007-27887, 72 FR 45902, Aug. 16, 2007]

### **§ 109.15 Enforcement proceedings.**

Proceedings against a vessel violating the Anchorage Regulations are to be brought in the name of the officer of the Coast Guard assigned for the time being as Captain of the Port. When the vessel is at a port where there is no Coast Guard officer, proceedings will be initiated in the name of the District Commander.

[CGFR 67-46, 32 FR 17727, Dec. 12, 1967, as amended by USCG-2007-27887, 72 FR 45903, Aug. 16, 2007]

### **§ 109.20 Publication; notice of proposed rule making.**

- (a) Section 4 of the Administrative Procedure Act (5 U.S.C. 553), requires publication of general notice of proposed rule making in the FEDERAL REGISTER (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law), except to the extent that there is involved
  - (1) any military, naval, or foreign affairs function of the United States or
  - (2) any matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. Except where notice or hearing is required by statute, this requirement does not apply to interpretative rules, general statements of policy, rules of agency organization, procedure, or practice, or in any situation in which the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.
- (b) General notice of proposed rule making published in accordance with the above will include
  - (1) a statement of the time, place, and nature of public rule making proceedings;
  - (2) reference to the authority under which the rule is proposed; and
  - (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

[CGFR 67-46, 32 FR 17727, Dec. 12, 1967]