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Title 33 — Navigation and Navigable Waters

Chapter I — Coast Guard, Department of Homeland Security

Subchapter S — Boating Safety

Part 177 Correction of Especially Hazardous Conditions

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PART 177—CORRECTION OF ESPECIALLY HAZARDOUS CONDITIONS

Authority: 46 U.S.C. 4302, 4308, 4311; Pub. L. 103-206, 107 Stat. 2439.

Source: CGD 72-71R, 37 FR 13347, July 7, 1972, unless otherwise noted.

§ 177.01 Purpose and applicability.

This part prescribes rules to implement section 4308 of Title 46 United States Code which governs the correction of especially hazardous conditions on recreational vessels and uninspected passenger vessels on waters subject to the jurisdiction of the United States and, for a vessel owned in the United States, on the high seas, except operators of:

- (a) Foreign boats temporarily using waters subject to United States jurisdiction;
- (b) Military or public boats of the United States, except recreational-type public boats;
- (c) A boat whose owner is a State or subdivision thereof, which is used principally for governmental purposes and which is clearly identifiable as such;
- (d) Ship's lifeboats.

[CGD 72-71R, 37 FR 13347, July 7, 1972, as amended by CGD 84-099, 52 FR 47534, Dec. 14, 1987; CGD 84-099, 53 FR 13117, Apr. 21, 1988]

§ 177.03 Definitions.

As used in this part:

- (a) [Reserved]

- (b) **Boat** means any vessel—
 - (1) Manufactured or used primarily for noncommercial use;
 - (2) Leased, rented, or chartered to another for the latter's noncommercial use; or
 - (3) Operated as an uninspected passenger vessel subject to the requirements of 46 CFR chapter I, subchapter C.
- (c) **Coast Guard Boarding Officer** means a commissioned, warrant, or petty officer of the Coast Guard having authority to board any vessel under the Act of August 4, 1949, 63 Stat. 502, as amended (14 U.S.C. 522).
- (d) **Operator** means the person who is in control or in charge of a boat while it is in use.
- (e) **Use** means operate, navigate, or employ.
- (f) **Vessel** includes every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

[CGD 72-71R, 37 FR 13347, July 7, 1972, as amended by CDG 84-099, 52 FR 47534, Dec. 14, 1987; USCG-1999-5040, 67 FR 34760, May 15, 2002; USCG-2020-0304, 85 FR 58281, Sept. 18, 2020]

§ 177.04 Order of unsafe condition.

- (a) The Commandant has redelegated to Coast Guard District Commanders, with the reservation that this authority shall not be further redelegated, the authority, under 46 U.S.C. 4308, to issue orders applicable to a specific boat within the District Commander's jurisdiction designating that boat unsafe for a specific voyage on a specific body of water when it is determined, under the provisions of § 177.07(f), that an unsafe condition exists.
- (b) Each order issued by a Coast Guard District Commander under the provisions of paragraph (a) of this section will contain:
 - (1) Notice that the person upon whom the order is served has the right under the Administrative Procedure Act (5 U.S.C. 553(e)), to petition for reconsideration and repeal of the order;
 - (2) Full title and address of the Coast Guard District Commander to whom the petition is to be submitted; and
 - (3) Notice that the petition should contain:
 - (i) The text or substance of the order which the petitioner seeks to have reconsidered and repealed;
 - (ii) A statement of the action sought by the petitioner;
 - (iii) Whatever arguments or data that are available to the petitioner to support the action sought; and
 - (iv) An advisement that if the petitioner desires reconsideration and repeal of the rule before a specific date, the petition should so state and give reasons why action by that date is necessary.

- (c) If a Coast Guard District Commander determines that a petition submitted under the provisions of paragraph (b) of this section contains adequate justification, the District Commander will initiate prompt action to repeal the order. If the District Commander determines that repeal of the order is not justified, the District Commander will issue prompt written notice of denial to the petitioner.

[CGD 95-057, 60 FR 34150, June 30, 1995, as amended by USCG-2013-0216, 78 FR 40966, July 9, 2013]

§ 177.05 Action to correct an especially hazardous condition.

An operator of a boat who is directed by a Coast Guard Boarding Officer to take immediate and reasonable steps necessary for the safety of those aboard the vessel, under section 4308 of Title 46, United States Code, shall follow the direction of the Coast Guard Boarding Officer, which may include direction to:

- (a) Correct the especially hazardous condition immediately;
- (b) Proceed to a mooring, dock, or anchorage; or
- (c) Suspend further use of the boat until the especially hazardous condition is corrected.

[CGD 72-71R, 37 FR 13347, July 7, 1972, as amended by CDG 84-099, 52 FR 47534, Dec. 14, 1987]

§ 177.07 Other unsafe conditions.

For the purpose of section 4308 of Title 46, United States Code, "other unsafe condition" means a boat:

- (a) Does not display between sunset and sunrise the navigation lights prescribed by the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) or, when in use upon the inland waters of the United States, the Inland Navigational Rules Act of 1980 (Pub. L. 96-591), 94 Stat. 3415, 33 U.S.C. 2001, et seq.);
- (b) That is operated by an individual who is apparently under the influence of alcohol or a dangerous drug, as defined in § 95.020 of this chapter, to the extent that, in the boarding officer's discretion, the continued operation of the vessel would create an unsafe condition.
- (c) Has a fuel leakage from either the fuel system or engine, or has an accumulation of fuel in the bilges.
- (d) Does not meet the applicable ventilation requirements for tanks and engine spaces prescribed by 46 CFR 25.40 (which applies to certain boats built before August 1, 1980), or Subpart K Ventilation, of 33 CFR Part 183 (which applies to boats built after July 31, 1980);
- (e) Does not meet the requirements for backfire flame control prescribed by 46 CFR 25.35; or
- (f) Designated manifestly unsafe for a specific voyage on a specific body of water due to:
 - (1) Unsuitable design or configuration, or
 - (2) Improper construction or inadequate material condition, or
 - (3) Improper or inadequate operational or safety equipment, and set forth in an order issued by a District Commander according to the provisions of § 177.04.

[CGD 72-71R, 37 FR 13347, July 7, 1972]

Editorial Note: For FEDERAL REGISTER citations affecting § 177.07, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 177.08 Penalties.

An operator of a vessel who does not follow the directions of a Coast Guard Boarding Officer prescribed in § 177.05 is, in addition to any other penalty prescribed by law, subject to—

- (a) The criminal penalties of 46 U.S.C. 4311, which provides that a person willfully operating a recreational vessel in violation of 46 U.S.C., Chapter 43 or regulations issued thereunder, shall be fined not more than \$5,000, imprisoned for not more than one year, or both.
- (b)
 - (1) The civil penalties for violating 46 U.S.C. 4307(a)(1).
 - (2) The civil penalties of 46 U.S.C. 4311, which provides that a person violating any other provision of 46 U.S.C., Chapter 43 or regulation issued thereunder is liable to the United States Government for a civil penalty, and, if the violation involves the operation of a vessel, the vessel is liable in rem for the penalty.

[CGD 96-052, 62 FR 16703, Apr. 8, 1997, as amended by USCG-2012-0306, 77 FR 37316, June 21, 2012. Redesignated by USCG-2013-0216, 78 FR 40966, July 9, 2013]