

PART 177—CORRECTION OF ESPECIALLY HAZARDOUS CONDITIONS

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AUTHORITY: 46 U.S.C. 4302, 4311; Pub. L. 103-206, 107 Stat. 2439; 49 CFR 1.45 and 1.46.

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, April 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. 89).

(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]

§ 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(g), 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

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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]

§ 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) Is operated in a Regulated Boating Area as described in §177.08 when:

- (1) The wave height within the Regulated Boating Area is 4 feet or greater; or
- (2) The wave height within the Regulated Boating Area is equal to or greater than the wave height determined by the formula

$$L/10 + F = W$$

where:

L=Overall length of a boat measured in feet in a straight horizontal line along and parallel with the centerline between the intersections of this line with the vertical planes of the stem and stern profiles excluding deckhouses and equipment.

F=The minimum freeboard when measured in feet from the lowest point along the upper strake edge to the surface of the water.

W=Maximum wave height in feet to the nearest highest whole number; or

(3) The surface current is 4 knots or greater within the Regulated Boating Area.

(g) 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 on GPO Access.

§ 177.08 Regulated boating areas.

For the purpose of this part, the following are regulated boating areas.

NOTE: Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

(a) *Quillayute River Entrance, Wash.* From the west end of James Island 47°54'23" N., 124°39'05" W. southward to buoy No. 2 at 47°53'42" N., 124°38'42" W. eastward to the shoreline at 47°53'42" N., 124°37'51" W., thence northward along the shoreline to 47°54'29" N., 124°38'20" W. thence northward to 47°54'36" N., 124°38'22" W. thence westward to the beginning.

(b) *Grays Harbor Entrance, Wash.* From a point on the shoreline at 46°59'00" N., 124°10'10" W. westward to 46°59'00" N., 124°15'30" W. thence southward to 46°51'00" N., 124°15'30" W. thence eastward to a point on the shoreline at 46°51'00" N., 124°06'40" W. thence northward along the shoreline to a point at the south jetty 46°54'20" N., 124°08'07" W. thence eastward to 46°54'10" N., 124°05'00" W. thence northward to 46°55'00" N., 124°03'30" W. thence northwestward to Damon Point at 46°56'50" N., 124°06'30" W. thence westward along the north shoreline of the harbor to the north jetty at 46°55'40" N., 124°10'27" W. thence northward along the shoreline to the beginning.

(c) *Willapa Bay, Wash.* From a point on the shoreline at 46°46'00" N., 124°05'40" W. westward to 46°44'00" N., 124°10'45" W. thence eastward to a point on the shoreline at 46°35'00" N., 124°03'45" W. thence northward along the shoreline around the north end of Leadbetter Point thence southward along the east shoreline of Leadbetter Point to 46°36'00" N., 124°02'15" W. thence eastward to 46°36'00" N., 124°00'00" W. thence northward to Toke point at 46°42'15" N., 123°58'00" W. thence westward along the north shoreline of the harbor and northward along the seaward shoreline to the beginning.

(d) *Columbia River Bar, Wash.-Oreg.* From a point on the shoreline at 46°18'00" N., 124°04'39" W. thence westward to 46°18'00" N., 124°09'30" W. thence southward to 46°12'00" N., 124°09'30" W. thence eastward to a point on the shoreline at 46°12'00" N., 123°59'33" W. thence eastward to Tansy Point Range Front Light at 46°11'16" N., 123°55'05" W.; thence northward to Chinook Point at 46°15'08" N., 123°55'25" W. thence northwestward to the north end of Sand Island at 46°17'29" N., 124°01'25" W. thence southwestward to a point on the north shoreline of the harbor at 46°16'25" N., 124°02'28" W. thence northwestward and southwestward along the north shoreline of the harbor and northward along the seaward shoreline to the beginning.

(e) *Nehalem River Bar, Oreg.* From a point on the shoreline 45°41'25" N., 123°56'16" W. thence westward 45°41'25" N., 123°59'00" W. thence southward to 45°37'25" N., 123°59'00" W. thence eastward to a point on the shoreline at 45°37'25" N., 123°56'38" W. thence northward along the shoreline to the north end of the south jetty at 45°39'40" N., 123°55'45" W. thence westward to a point on the shoreline at 45°39'45" N., 123°56'19" W. thence northward along the shoreline to the beginning.

(f) *Tillamook Bay Bar, Oreg.* From a point on the shoreline at 45°35'15" N., 123°57'05" W. thence westward 45°35'15" N., 124°00'00" W. thence southward to 45°30'00" N., 124°00'00" W. thence eastward to a point on the shoreline at 45°30'00" N., 123°57'40" W. thence northward along the shoreline to the north end of Kincheloe Point at 45°33'30" N., 123°56'05" W. thence northward to a point on the north shoreline of the harbor at 45°33'40" N., 123°55'59" W. thence westward along the north shoreline of the harbor then northward along the seaward shoreline to the beginning.

(g) *Netarts Bay Bar, Oreg.* From a point on the shoreline at 45°28'05" N. thence westward to 45°28'05" N., 124°00'00" W. thence southward to 45°24'00" N., 124°00'00" W. thence eastward to a point on the shoreline at 45°24'00" N., 123°57'45" W. thence northward along the shoreline to 45°26'03" N., 123°57'15" W. thence eastward to a point on the north shoreline of the harbor at

45°26'00" N., 123°56'57" W. thence northward along the shoreline to the beginning.

(h) *Siletz Bay Bar, Oreg.* From a point on the shoreline at 44°56'32" N., 124°01'29" W. thence westward to 44°56'32" N., 124°03'00" W. thence southward to 44°54'40" N., 124°03'15" W. thence eastward to a point on the shoreline at 44°54'40" N., 124°01'55" W. thence northward along the shoreline to 44°55'35" N., 124°01'25" W. thence northward to a point on the north shoreline of the harbor at 44°55'45" N., 124°01'20" W. thence westward and northward along the shoreline to the beginning.

(i) *Depoe Bay Bar, Oreg.* From a point on the shoreline at 44°49'15" N., 124°04'00" W. thence westward to 44°49'15" N., 124°04'35" W. thence southward to 44°47'55" N., 124°04'55" W. thence eastward to a point on the shoreline at 44°47'53" N., 124°04'25" W. thence northward along the shoreline and eastward along the south bank of the entrance channel to the highway bridge thence northward to the north bank at the bridge thence westward along the north bank of the entrance channel and northward along the seaward shoreline to the beginning.

(j) *Yaquina Bay Bar, Oreg.* From a point on the shoreline at 44°38'11" N., 124°03'47" W. thence westward to 44°38'11" N., 124°05'55" W. thence southward to 44°35'15" N., 124°06'05" W. thence eastward to a point on the shoreline at 44°35'15" N., 124°04'02" W. thence northward along the shoreline and eastward along the south bank of the entrance channel to the highway bridge thence northward to the north bank of the entrance channel at the bridge thence westward along the north bank of the entrance channel and northward along the seaward shoreline to the beginning.

(k) *Siuslaw River Bar, Oreg.* From a point on the shoreline at 44°02'00" N., 124°08'00" W. thence westward to 44°02'00" N., 124°09'30" W. thence southward to 44°00'00" N., 124°09'30" W. thence eastward to a point on the shoreline at 44°00'00" N., 124°08'12" W. thence northward along the shoreline and southward along the west bank of the entrance channel to 44°00'35" N., 124°07'48" W. thence southeastward to a point on the east bank of the entrance channel at 44°00'20" N., 124°07'31" W. thence

northward along the east bank of the entrance channel and northward along the seaward shoreline to the beginning.

(l) *Umpqua River Bar, Oreg.* From a point on the shoreline at 43°41'20" N., 124°11'58" W. thence westward to 43°41'20" N., 124°13'32" W. thence southward to 43°38'35" N., 124°14'25" W. thence eastward to a point on the shoreline at 43°38'35" N., 124°12'35" W. thence northward along the shoreline to the north end of the training jetty at 43°40'15" N., 124°11'45" W. thence northward to a point on the west bank of the entrance channel at 43°40'40" N., 124°11'41" W. thence southwestward along the west bank of the entrance channel thence northward along the seaward shoreline to the beginning.

(m) *Coos Bay Bar, Oreg.* From a point on the shoreline at 43°22'15" N., 124°19'34" W. thence westward to 43°22'20" N., 124°22'28" W. thence southwestward to 43°21'00" N., 124°23'35" W. thence southeastward to a point on the shoreline at 43°20'25" N., 124°22'28" W. thence northward along the shoreline and eastward along the south shore of the entrance channel to a point on the shoreline at 43°20'52" N., 124°19'12" W. thence eastward to a point on the east shoreline of the harbor at 43°21'00" N., 124°18'50" W. thence northward to a point on the west shoreline of the harbor at 43°21'45" N., 124°19'10" W. thence south and west along the west shoreline of the harbor thence northward along the seaward shoreline to the beginning.

(n) *Coquille River Bar, Oreg.* From a point on the shoreline at 43°08'25" N., 124°25'04" W. thence southwestward to 43°07'50" N., 124°27'05" W. thence southwestward to 43°07'03" N., 124°28'25" W. thence eastward to a point on the shoreline at 43°06'00" N., 124°25'55" W. thence northward along the shoreline and eastward along the south shoreline of the channel entrance to 43°07'17" N., 124°25'00" W. thence northward to the east end of the north jetty at 43°07'24" N., 124°24'59" W. thence westward along the north shoreline of the entrance channel and northward along the seaward shoreline to the beginning.

(o) *Rogue River Bar, Oreg.* From a point on the shoreline at 42°26'25" N., 124°26'03" W. thence westward to

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42°26'10" N., 124°27'05" W. thence southward to 42°24'15" N., 124°27'05" W. thence eastward to a point on the shoreline at 42°24'15" N., 124°25'30" W. thence northward along the shoreline and eastward along the south shoreline of the entrance channel to the highway bridge thence northward across the inner harbor jetty to a point on the north shoreline of the entrance channel at the highway bridge thence westward along the north shoreline of the entrance channel thence northward along the seaward shoreline to the beginning.

(p) *Chetco River Bar, Oreg.* From a point on the shoreline at 42°02'35" N., 124°17'20" W. thence southeastward to 42°01'45" N., 124°16'30" W. thence northwestward to a point on the shoreline at 42°02'10" N., 124°15'35" W. thence northwestward along the shoreline thence northward along the east shoreline of the channel entrance to 42°02'47" N., 124°16'03" W. thence northward along the west face of the inner jetty and east shoreline of the channel entrance to the highway bridge thence westward to the west shoreline of the channel at the highway bridge thence southward along the west shoreline of the channel thence westward along the seaward shoreline to the beginning.

[CGD 73-41R, 39 FR 2583, Jan. 23, 1974, as amended by CGD 86-082, 52 FR 33812, Sept. 8, 1987]

§ 177.09 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 43 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]

PART 179—DEFECT NOTIFICATION

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- 179.01 Purpose.
- 179.03 Definitions.
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- 179.07 Notice given by "more expeditious means."
- 179.09 Contents of notification.
- 179.11 Defects determined by the Commandant.
- 179.13 Initial report to the Commandant.
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- 179.19 Address of the Commandant.

AUTHORITY: 43 U.S.C. 1333; 46 U.S.C. 4302, 4307, 4310, and 4311; Pub. L 103-206, 107 Stat. 2439; 49 CFR 1.46.

SOURCE: CGD 72-55R, 37 FR 15776, Aug. 4, 1972, unless otherwise noted.

§ 179.01 Purpose.

This part prescribes rules to implement 46 U.S.C. 4310, governing the notification of defects in boats and associated equipment.

[CGD 93-055, 61 FR 13926, Mar. 28, 1996]

§ 179.03 Definitions.

Associated equipment as used in this part, means the following equipment as shipped, transferred, or sold from the place of manufacture and includes all attached parts and accessories:

- (1) An inboard engine.
- (2) An outboard engine.
- (3) A stern drive unit.
- (4) An inflatable personal flotation device approved under 46 CFR 160.076.

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.

Manufacturer means any person engaged in—

- (1) The manufacture, construction, or assembly of boats or associated equipment;