

J.7. Termination of Unsafe Use.

- a. **GENERAL:** 46 USC 4308 provides that if a Coast Guard boarding officer observes a recreational boat being used without sufficient lifesaving or firefighting devices, or in an overloaded or other unsafe condition as defined in regulations, and in his/her judgment such use creates a hazardous/unsafe condition, he/she may take whatever immediate and reasonable steps would be necessary for the safety of those aboard the vessel, including directing the operator to return to mooring and to remain there until the situation creating the hazard is corrected or ended.
- b. The following additional unsafe conditions have been promulgated in regulations (33 CFR 177.07) and pertain to a boat which:
- (1) Does not display the navigation lights prescribed by 33 CFR Part 81 or 33 USC 2020-2031 between sunset and sunrise;
 - (2) Has fuel leakage from either the fuel system or engine;
 - (3) Has an accumulation of fuel in the bilges or compartment other than a fuel tank;
 - (4) Does not meet the ventilation requirements for tank and engine spaces prescribed by 46 CFR subpart 25.40;
 - (5) Does not meet the requirements for back-fire flame control prescribed by 46 CFR subpart 25.35;
 - (6) Is operated in a Regulated Boating Area under certain wave and current conditions as described in 33 CFR 177.07 (pertains to 13th Coast Guard District only);
 - (7) Is designated manifestly unsafe for a specific voyage on a specific body of water due to:
 - (a) unsuitable design or configuration; or
 - (b) improper construction or inadequate material condition; or
 - (c) improper or inadequate operational or safety equipment, and set forth in a regulation issued by a district com-

J.7.b.(7)(c) (Cont'd)

mander under the authority of
33 CFR 1.05-1(d).

c. USE OF TERMINATION AUTHORITY.

- (1) Three conditions must be met before the use of a boat can be terminated:
 - The boat must be operating with one or more of the specific unsafe conditions set forth by the Act or regulation; and
 - Continued use of the boat in unsafe condition(s) would have to create an **ESPECIALLY HAZARDOUS CONDITION** in the **JUDGMENT** of the boarding officer; and
 - The condition(s) cannot be corrected on the spot.
- (2) Orders of termination of use, except for manifestly unsafe boats, can be issued only by commanding officers, officers-in-charge, and boarding officers.
- (3) **ONLY THE DISTRICT COMMANDER** can designate a boat to be "manifestly unsafe" for a specific voyage on a specific body of water, and this must be accomplished by a special regulation (see 33 CFR 1.05-1(d)).
- (4) An order of termination of use will be confirmed on the CG-4100, which will be given to the operator. The remarks block of the CG-4100 will be used to describe the specific unsafe conditions, the precise time, and the identity of the boarding officer who ordered the corrective action, as well as any specific instructions which may have been given to the operator.
- (5) The decision whether to remove passengers and/or cargo and whether to escort or tow the boat to a mooring must be based on the judgment of the boarding officer. The boarding officer must consider the particular circumstances at the time of the order to terminate, such as existing weather and sea conditions, the extent of the unsafe condition, whether the area is protected or semi-protected from weather, and so on. Escort