

performance standard for the alternative use and possession of visual distress alerting and locating signals as mandated by carriage requirements for recreational boats in subpart C of part 175 of title 33, Code of Federal Regulations.

“(b) REGULATIONS.—Not later than 180 days after the performance standard for alternative use and possession of visual distress alerting and locating signals is finalized, the Secretary shall revise part 175 of title 33, Code of Federal Regulations, to allow for carriage of such alternative signal devices.”

LARGE RECREATIONAL VESSEL REGULATIONS

Pub. L. 115–232, div. C, title XXXV, §3529(a), Aug. 13, 2018, 132 Stat. 2318, provided that:

“(a) IN GENERAL.—

“(1) ISSUANCE.—The Secretary of the department in which the Coast Guard is operating shall issue large recreational vessel regulations applicable to any recreational vessel (as defined in section 2101 of title 46, United States Code) over 300 gross tons as measured under section 14502 of such title, or an alternate tonnage measured under section 14302 of such title as prescribed by the Secretary under section 14104 of such title, that does not carry any cargo or passengers for hire.

“(2) SCOPE AND CONTENT OF REGULATIONS.—The regulations issued under this subsection—

“(A) subject to subparagraph (B), shall be comparable to the code set forth in Merchant Shipping Notice 1851(M) (commonly referred to as the ‘Large Commercial Yacht Code (LY3)’), as published by the Maritime and Coastguard Agency of the United Kingdom on August 20, 2013, or an equivalent code, regulation, or standard that is acceptable to the Secretary; and

“(B) shall require that, as part of the review of an application for documentation of a vessel that is subject to the regulations, the owner shall disclose to the Coast Guard—

“(i) the identification and place of residence of such owner; and

“(ii) if the owner is an entity described in paragraph (2), (3), or (4) of section 12103(b) of title 46, United States Code, the beneficial owners of such entity.

“(3) DEADLINE.—The Secretary shall issue regulations required by paragraph (1) by not later than one year after the date of the enactment of this Act [Aug. 13, 2018].

“(4) INTERIM COMPLIANCE.—Until the effective date of regulations issued under paragraph (1), a recreational vessel described in paragraph (1) shall not be subject to inspection under section 3301(7) of title 46, United States Code, if the Secretary determines, as part of the review of the application for documentation submitted for the vessel by the owner of the vessel and other materials as considered necessary by the Secretary, that the vessel complies with the code set forth in Merchant Shipping Notice 1851(M) (commonly referred to as the ‘Large Commercial Yacht Code (LY3)’), as published by the Maritime and Coastguard Agency of the United Kingdom on August 20, 2013, or an equivalent code, regulation, or standard that is acceptable to the Secretary.

“(5) DEFINITIONS.—

“(A) BENEFICIAL OWNER.—In this subsection the term ‘beneficial owner’—

“(i) means, with respect to an entity, each natural person who, directly or indirectly—

“(I) exercises control over the entity through ownership interests, voting rights, agreements, or otherwise; or

“(II) has an interest in or receives substantial economic benefits from the assets of the entity; and

“(ii) does not include, with respect to an entity—

“(I) a minor child;

“(II) a person acting as a nominee, intermediary, custodian, or agent on behalf of another person;

“(III) a person acting solely as an employee of the entity and whose control over or economic benefits from the entity derives solely from the employment status of the person;

“(IV) a person whose only interest in the entity is through a right of inheritance, unless the person otherwise meets the definition of ‘beneficial owner’ under this subparagraph; and

“(V) a creditor of the entity, unless the creditor otherwise meets the requirements of ‘beneficial owner’ under this subparagraph.

“(B) OWNER.—In this subsection, other than in subparagraph (A) of this paragraph, the term ‘owner’ means the person who is the eligible owner of the vessel for purposes of section 12103(b) of title 46, United States Code.”

AVAILABILITY AND USE OF EPIRBs FOR RECREATIONAL VESSELS

Pub. L. 105–383, title III, §309, Nov. 13, 1998, 112 Stat. 3422, provided that: “The Secretary of Transportation, through the Coast Guard and in consultation with the National Transportation Safety Board and recreational boating organizations, shall, within 24 months of the date of the enactment of this Act [Nov. 13, 1998], assess and report to Congress on the use of emergency position indicating beacons (EPIRBs) and similar devices by operators of recreational vessels on the Intracoastal Waterway and operators of recreational vessels beyond the Boundary Line. The assessment shall at a minimum—

“(1) evaluate the current availability and use of EPIRBs and similar devices by the operators of recreational vessels and the actual and potential contribution of such devices to recreational boating safety; and

“(2) provide recommendations on policies and programs to encourage the availability and use of EPIRBs [sic] and similar devices by the operators of recreational vessels.”

§ 4303. Inspection and testing

(a) Subject to regulations, supervision, and reviews that the Secretary may prescribe, the Secretary may delegate to a person, private or public agency, or organization, or to an officer or employee under the supervision of that person or agency, any work, business, or function related to the testing, inspection, and examination necessary for compliance enforcement and for the development of data to enable the Secretary to prescribe regulations under section 4302 of this title.

(b) The Secretary may—

- (1) conduct research, testing, and development necessary to carry out this chapter, including the procurement by negotiation or otherwise of experimental and other recreational vessels or associated equipment for research and testing purposes; and
- (2) subsequently sell those vessels.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 531.)

HISTORICAL AND REVISION NOTES

Revised section	Source section (U.S. Code)
4303	46:1457

Section 4303 authorizes the Secretary to delegate to certain persons or agencies or organizations any work, business, or function related to the testing, inspection, and examination necessary for compliance enforcement. The Secretary may also conduct research, testing, and development necessary to carry out this chapter, including procurement of vessels and equipment and their subsequent sale. The Committee wishes to

make clear that the Secretary may sell anything that was purchased to test.

§ 4304. Importation of nonconforming vessels and equipment

The Secretary and the Secretary of the Treasury may authorize by joint regulations the importation of any nonconforming recreational vessel or associated equipment on conditions, including providing a bond, that will ensure that the recreational vessel or associated equipment will be brought into conformity with applicable safety regulations and standards of the Government before the vessel or equipment is operated on waters subject to the jurisdiction of the United States.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 531.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 4304 points to 46:1460.

Section 4304 requires the regulation and control of the importation of nonconforming recreational vessels and associated equipment. This is to assure United States manufacturers that foreign imports comply with those regulations and standards in effect for United States products so that all manufacturers will be on this same competitive footing. This is being done in lieu of providing a specific prohibition against the importation of these vessels and equipment that might be considered an imposition of a non-tariff barrier to trade.

§ 4305. Exemptions and equivalents

(a) EXEMPTIONS.—If the Secretary considers that recreational vessel safety will not be adversely affected, the Secretary may issue an exemption from this chapter or a regulation prescribed under this chapter.

(b) EQUIVALENTS.—The Secretary may accept a substitution for associated equipment performance or other safety standards for a recreational vessel if the substitution provides an equivalent level of safety.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 531; Pub. L. 116-283, div. G, title LVXXXIII [LXXXIII], § 8318(a), Jan. 1, 2021, 134 Stat. 4700.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 4305 points to 46:1458.

Section 4305 permits the Secretary to grant appropriate exemptions from the requirements of this chapter when recreational vessel safety will not be adversely affected.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 substituted “Exemptions and equivalents” for “Exemptions” in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

§ 4306. Federal preemption

Unless permitted by the Secretary under section 4305 of this title, a State or political subdivision of a State may not establish, continue in effect, or enforce a law or regulation estab-

lishing a recreational vessel or associated equipment performance or other safety standard or imposing a requirement for associated equipment (except insofar as the State or political subdivision may, in the absence of the Secretary’s disapproval, regulate the carrying or use of marine safety articles to meet uniquely hazardous conditions or circumstances within the State) that is not identical to a regulation prescribed under section 4302 of this title.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 531.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 4306 points to 46:1459 and 46:1460.

Section 4306 establishes the Federal preemption of recreational boating standards and requirements. A State or a political subdivision may not establish, continue, or enforce a law or regulation establishing a performance or other safety standard that is not identical to a Federal standard. The Secretary may grant an exemption to a State when the State requirement is one that is needed to meet uniquely hazardous conditions or circumstances within a State. This is to provide uniform standards without the imposition of excessive special requirements by individual States.

§ 4307. Prohibited acts

(a) A person may not—

(1) manufacture, construct, assemble, sell or offer for sale, introduce or deliver for introduction into interstate commerce, or import into the United States, a recreational vessel, associated equipment, or component of the vessel or equipment unless—

(A)(i) it conforms with this chapter or a regulation prescribed under this chapter; and

(ii) it does not contain a defect which has been identified, in any communication to such person by the Secretary or the manufacturer of that vessel, equipment or component, as creating a substantial risk of personal injury to the public; or

(B) it is intended only for export and is so labeled, tagged, or marked on the recreational vessel or equipment, including any markings on the outside of the container in which it is to be exported;

(2) affix, attach, or display a seal, document, label, plate, insignia, or other device indicating or suggesting compliance with standards of the United States Government on, in, or in connection with, a recreational vessel or item of associated equipment that is false or misleading; or

(3) fail to provide a notification as required by this chapter or fail to exercise reasonable diligence in carrying out the notification and reporting requirements of this chapter.

(b) A person may not operate a vessel in violation of this chapter or a regulation prescribed under this chapter.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 531; Pub. L. 98-557, § 8(a), Oct. 30, 1984, 98 Stat. 2862.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 4307(a) points to 46:1461(a).