

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).