

operated without sufficient lifesaving or fire-fighting devices or in an overloaded or other unsafe condition (as defined in regulations prescribed under this chapter) and, in the judgment of the official, the operation creates an especially hazardous condition, the official may direct the individual in charge of the recreational vessel to take immediate and reasonable steps necessary for the safety of individuals on board the vessel, including directing the individual in charge to return to a mooring and to remain there until the situation creating the hazard is corrected or ended.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 532; Pub. L. 99-307, §1(9), May 19, 1986, 100 Stat. 445.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
4308 .....	46:1462

Section 4308 authorizes an appropriate official to terminate the unsafe operation of recreational vessels. If the official observes the vessel being operated without sufficient lifesaving or firefighting devices or in an overloaded or other unsafe condition (as defined in regulations) and believes the operation creates an especially hazardous condition, the operator may be directed to take immediate and reasonable steps necessary for safety, including returning to a mooring and remaining there until the hazard is corrected or ended. This does not prevent the assessment of any applicable civil penalties nor the pursuing of appropriate criminal action.

AMENDMENTS

1986—Pub. L. 99-307 substituted “individual in charge” for “operator” in two places.

**§ 4309. Investigation and reporting**

(a) A recreational vessel manufacturer to whom this chapter applies shall establish and maintain records and reports and provide information the Secretary may require to enable the Secretary to decide whether the manufacturer has acted or is acting in compliance with this chapter and regulations prescribed under this chapter. On request of an officer, employee, or agent authorized by the Secretary, a recreational vessel manufacturer shall permit the officer, employee, or agent to inspect, at reasonable times, factories or other facilities, and records related to deciding whether the manufacturer has acted or is acting in compliance with this chapter and regulations prescribed under this chapter.

(b) Information reported to or otherwise obtained by the Secretary or the representative of the Secretary under this section containing or related to a trade secret or other matter referred to in section 1905 of title 18, or authorized to be exempt from public disclosure by section 552(b) of title 5, is confidential under section 1905. However, on approval of the Secretary, the information may be disclosed to other officers, employees, or agents concerned with carrying out this chapter or when it is relevant in a proceeding under this chapter.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 532.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
4309 .....	46:1463

Section 4309 requires the establishment and maintenance of certain records by manufacturers, and the inspection and access to these records by the Secretary, at reasonable times, so as to assure Federal enforcement officials that the manufacturer has acted or is in compliance with applicable laws and regulations. It also provides protection for matters related to trade secrets and exemptions from public disclosure.

**§ 4310. Repair and replacement of defects**

(a) In this section, “associated equipment” includes only items or classes of associated equipment that the Secretary shall prescribe by regulation after deciding that the application of the requirements of this section to those items or classes of associated equipment is reasonable and in furtherance of this chapter.

(b) If a recreational vessel or associated equipment has left the place of manufacture and the recreational vessel manufacturer discovers or acquires information that the manufacturer decides, in the exercise of reasonable and prudent judgment, indicates that a recreational vessel or associated equipment subject to an applicable regulation prescribed under section 4302 of this title either fails to comply with the regulation, or contains a defect that creates a substantial risk of personal injury to the public, the manufacturer shall provide notification of the defect or failure of compliance as provided by subsections (c) and (d) of this section within a reasonable time after the manufacturer has discovered the defect.

(c)(1) The notification required by subsection (b) of this section shall be given to the following persons in the following manner:

(A) by first class mail or by certified mail to the first purchaser for other than resale, except that the requirement for notification of the first purchaser shall be satisfied if the recreational vessel manufacturer exercises reasonable diligence in establishing and maintaining a list of those purchasers and their current addresses, and sends the required notice to each person on that list at the address appearing on the list.

(B) by first class mail or by certified mail to subsequent purchasers if known to the manufacturer.

(C) by first class mail or by certified mail or other more expeditious means to the dealers and distributors of the recreational vessels or associated equipment.

(2) The notification required by subsection (b) of this section is required to be given only for a defect or failure of compliance discovered by the recreational vessel manufacturer within a reasonable time after the manufacturer has discovered the defect or failure, except that the manufacturer’s duty of notification under paragraph (1)(A) and (B) of this subsection applies only to a defect or failure of compliance discovered by the manufacturer within one of the following appropriate periods:

(A) if a recreational vessel or associated equipment required by regulation to have a