

§ 4105. Uninspected passenger vessels

(a) Chapter 43 of this title applies to an uninspected passenger vessel.

(b)(1) In applying this title with respect to an uninspected vessel of less than 24 meters overall in length that carries passengers to or from a port in the United States Virgin Islands, the Secretary shall substitute "12 passengers" for "6 passengers" each place it appears in section 2101(42) if the Secretary determines that the vessel complies with, as applicable to the vessel—

(A) the Code of Practice for the Safety of Small Commercial Motor Vessels (commonly referred to as the "Yellow Code"), as published by the U.K. Maritime and Coastguard Agency and in effect on January 1, 2014; or

(B) the Code of Practice for the Safety of Small Commercial Sailing Vessels (commonly referred to as the "Blue Code"), as published by such agency and in effect on such date.

(2) If the Secretary establishes standards to carry out this subsection—

(A) such standards shall be identical to those established in the Codes of Practice referred to in paragraph (1); and

(B) on any dates before the date on which such standards are in effect, the Codes of Practice referred to in paragraph (1) shall apply with respect to the vessels referred to in paragraph (1).

(c) The Secretary shall, by regulation, require certain additional equipment which may include liferafts or other lifesaving equipment, construction standards, or specify additional operating standards for those uninspected passenger vessels defined in section 2101(42)(A) of this title.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 529; Pub. L. 103-206, title V, §511(b), Dec. 20, 1993, 107 Stat. 2442; Pub. L. 113-281, title III, §319, Dec. 18, 2014, 128 Stat. 3051.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
4105 .....	46:1452 46:1453

Section 4105 provides that an uninspected passenger vessel is subject to Chapter 43, as a recreational vessel even when it is carrying not more than six passengers.

AMENDMENTS

2014—Subsecs. (b), (c). Pub. L. 113-281 added subsec. (b), redesignated former subsec. (b) as (c), and in subsec. (c) substituted "The" for "Within twenty-four months of the date of enactment of this subsection, the".

1993—Pub. L. 103-206 designated existing provisions as subsec. (a) and added subsec. (b).

§ 4106. Penalties

If a vessel to which this chapter applies is operated in violation of this chapter or a regulation prescribed under this chapter, the owner, charterer, managing operator, agent, master, and individual in charge are each liable to the United States Government for a civil penalty of not more than \$5,000. The vessel also is liable in rem for the penalty.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 529; Pub. L. 100-540, §3, Oct. 28, 1988, 102 Stat. 2719.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
4106 .....	46:5260

Section 4106 provides a civil penalty of \$100 for a violation of this chapter or a regulation under this chapter. The vessel also is liable in rem.

AMENDMENTS

1988—Pub. L. 100-540 substituted "not more than \$5,000" for "\$100".

CHAPTER 43—RECREATIONAL VESSELS

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HISTORICAL AND REVISION NOTES

Chapter 43 contains the laws applicable to recreational vessels, which originated primarily with the enactment of the Federal Boat Safety Act of 1971 (Public Law 92-75, 85 Stat. 213). That Act embraced a number of activities, but the portion restated in this chapter deals with the establishment of national construction and performance standards for recreational vessels and their associated equipment, the necessary flexible regulatory authority for inspection and testing, Federal preemption, certain necessary prohibited acts, enforcement authority, investigation and reporting requirements, procedures for repair and defect notification, and attendant penalties and injunctive relief. These laws are a direct response to the dramatic increase in the number of recreational boats and the Congressional recognition of the maritime safety problems that recreational boating has imposed upon our more than 25 million miles of waterways.

§ 4301. Application

(a) This chapter applies to a recreational vessel and associated equipment carried in the vessel on waters subject to the jurisdiction of the United States (including the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988) and, for a vessel owned in the United States, on the high seas.

(b) Except when expressly otherwise provided, this chapter does not apply to a foreign vessel temporarily operating on waters subject to the jurisdiction of the United States.

(c) Until there is a final judicial decision that they are navigable waters of the United States, the following waters lying entirely in New Hampshire are declared not to be waters subject to the jurisdiction of the United States within the meaning of this section: Lake Winnisquam, Lake Winnepesaukee, parts of the Merrimack River, and their tributary and connecting waters.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 529; Pub. L. 105-383, title III, §301(b)(4), Nov. 13, 1998, 112 Stat. 3417.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
4301 .....	46:1453

Section 4301 provides that this chapter is applicable to a recreational vessel that operates on waters subject to the jurisdiction of the United States or that is owned in the United States and while operating on the high seas.

It also provides that a foreign recreational vessel that temporarily uses our waters is not subject to the requirements of this chapter. However, if the vessel remains permanently in the United States, it would be subject to the provisions of this chapter.

Section 4301(c) recognizes the ongoing controversy over the navigability of certain waters of New Hampshire. While a recreational vessel operating on these waters need not meet the requirements of this chapter, it would be prohibited from operating on any other waters subject to the jurisdiction of the United States if it does not comply with these requirements.

REFERENCES IN TEXT

Presidential Proclamation No. 5928, referred to in subsec. (a), is set out under section 1331 of Title 43, Public Lands.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-383 inserted “(including the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988)” after “of the United States”.

EFFECTIVE DATE

Chapter effective Apr. 15, 1984, see section 2(g)(1) of Pub. L. 98-89, set out as a note under section 3101 of this title.

§ 4302. Regulations

(a) The Secretary may prescribe regulations—

(1) establishing minimum safety standards for recreational vessels and associated equipment, and establishing procedures and tests required to measure conformance with those standards, with each standard—

(A) meeting the need for recreational vessel safety; and

(B) being stated, insofar as practicable, in terms of performance;

(2) requiring the installation, carrying, or use of associated equipment (including fuel systems, ventilation systems, electrical systems, sound-producing devices, firefighting equipment, lifesaving devices, signaling devices, ground tackle, life- and grab-rails, and navigational equipment) on recreational vessels and classes of recreational vessels subject to this chapter, and prohibiting the installation, carrying, or use of associated equipment that does not conform with safety standards established under this section; and

(3) requiring or permitting the display of seals, labels, plates, insignia, or other devices for certifying or evidencing compliance with safety regulations and standards of the United States Government for recreational vessels and associated equipment.

(b) Each regulation prescribed under this section shall specify an effective date that is not earlier than 180 days from the date the regulation was published, unless the Secretary finds that there exists a recreational vessel safety

hazard so critical as to require an earlier effective date. However, this period may not be more than 24 months for cases involving, in the discretion of the Secretary, major product design, retooling, or major changes in the manufacturing process.

(c) In prescribing regulations under this section, the Secretary shall, among other things—

(1) consider the need for and the extent to which the regulations will contribute to recreational vessel safety;

(2) consider relevant available recreational vessel safety standards, statistics, and data, including public and private research, development, testing, and evaluation;

(3) not compel substantial alteration of a recreational vessel or item of associated equipment that is in existence, or the construction or manufacture of which is begun before the effective date of the regulation, but subject to that limitation may require compliance or performance, to avoid a substantial risk of personal injury to the public, that the Secretary considers appropriate in relation to the degree of hazard that the compliance will correct; and

(4) consult with the National Boating Safety Advisory Council established under section 13110 of this title about the considerations referred to in clauses (1)–(3) of this subsection.

(d) Section 8903 of this title does not apply to a vessel being operated for bona fide dealer demonstrations provided without fee to business invitees. However, if on the basis of substantial evidence, the Secretary decides under this section that requiring vessels so operated to be under the control of licensed individuals is necessary for boating safety, then the Secretary may prescribe regulations requiring the licensing of individuals controlling these vessels in the same manner as provided in chapter 89 of this title for individuals in control of vessels carrying passengers for hire.

(e)(1) Under this section, a model year for recreational vessels and associated equipment shall, except as provided in paragraph (2)—

(A) begin on June 1 of a year and end on July 31 of the following year; and

(B) be designated by the year in which it ends.

(2) Upon the request of a recreational vessel manufacturer to which this chapter applies, the Secretary may alter a model year for a model of recreational vessel of the manufacturer and associated equipment, by no more than 6 months from the model year described in paragraph (1).

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 530; Pub. L. 114-120, title III, §303(a), Feb. 8, 2016, 130 Stat. 53.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
4302 .....	46:1454 46:1455 46:1456 46:1464(g) 46:1488

Section 4302 authorizes the Secretary to prescribe regulations to carry out the provisions of this chapter. In lieu of establishing specific statutory safety require-