



## United States Coast Guard

Department of Homeland Security

### Charter Operations

#### Foreign Flagged Vessels can:

- 1) Operate as a Recreational Vessel (no consideration), no limit on number of passengers.
- 2) Operate as a Charter Vessel, no crew provided, limited to 12 passengers, written contract required

#### U.S. Flagged Vessels can:

- 1) Operate as a Recreational vessel (no consideration), no limit on passengers;
- 2) Operate as a Charter Vessel no crew provided, limited to 12 passengers, written contract required
- 3) Operate as an Uninspected Passenger Vessel, less than 100 GRT can carry up to 6 passengers; greater than 100 GRT can carry up to 12 passengers

**Charter Operation:** a valid charter is an agreement where the charterer has use of the vessel for a period of time and is considered the owner. Charterer may take on legal obligations, to the owner, the crew, the passengers carried, and others.

Elements of a valid charter may include: 1) The charterer must have the option of selecting crew, although the owner may require general levels of proficiency for whatever crew is retained based on federal statutes; 2) The master/crew are paid by the charterer; 3) All food, fuel and stores are provided by the charterer; 4) Insurance is obtained by the charterer, at least to the extent of covering as carrying "passengers for hire" liability not included in the owner's insurance; 5) The charterer is responsible for the safe navigation of the vessel; 6) Used as a platform for events, *even while moored at the pier*, and; 7) The vessel is surveyed upon its delivery and return.

### What are the most common charter vessel errors?

- 1) A charter vessel may NOT carry more than 12 passengers without a Certificate of Inspection (COI).
- 2) A charter contract may not provide a crew, the charter must be able to select a crew and have the ability to discharge the crew.
- 3) The owner of the vessel may NOT be the vessel master or part of the crew. The vessel owner is not allowed on board during a charter.
- 4) A charter vessel may NOT carry more than 12 passengers while moored. A charter vessel is considered to be "carrying" passengers whether moored or underway.
- 5) The charterer is not considered a passenger, and there can only be one charterer, even though the vessel may be chartered by several individuals. In this case, one person would be considered the charterer and the rest would be counted as passengers.
- 6) Both U.S. flag and foreign vessels may charter. All foreign flagged vessels can not carry passengers for hire and must charter and/or operate as a recreational vessel.



### DEFINITIONS

**46 US Code (USC) 2101, 46 Code of Federal Regulations (CFR) 175.400,**

**Passenger:** means an individual carried on a vessel, except: (1) The owner or an individual representative of the owner, or in the case of a vessel under charter, an individual charterer or individual representative of the charterer. (2) The Master; or (3) A member of the crew **engaged in the business** of the vessel who has not contributed consideration for carriage and who is paid for on board services.

**Passenger for Hire:** means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.

**Consideration:** means an economic benefit, inducement, right, or profit, including pecuniary payment accruing to an individual, person, or entity but not including a voluntary sharing of the actual expenses of the voyage by monetary contribution or donation of food, fuel, beverage, or other supplies.

**Recreational Vessel:** means a vessel - (A) being manufactured or operated primarily for pleasure; or (B) leased, rented, or chartered to another for the latter's pleasure.



**FOR ADDITIONAL INFORMATION  
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## VESSELS OVER 300 GROSS TONS, U.S. AND FOREIGN FLAG

*46 USC 2101 & 3301, 46 CFR 90.05-1*

All seagoing motor vessels foreign or domestic of at least 300 gross tons, including recreational vessels not engaged in trade, are subject to inspection and certification.

Motor-propelled yachts of at least 300 gross tons making voyages beyond the boundary line are, by definition, “seagoing motor vessels”

A pleasure yacht not engaged in trade is generally not subject to SOLAS, irrespective of its size, its number of passengers (as defined by SOLAS), or the international nature of its voyage.

All foreign flagged yachts engaged in trade must comply with U.S. cabotage laws.

Vessels must comply with minimum safe manning requirements.

It is generally impracticable or not possible for a foreign flagged yacht, subject to U.S. Inspection and Certification, to comply with U.S. law by obtaining a Certificate of Inspection.

U.S. Inspection and certification requirements may not apply to a foreign flagged vessel, which has on board a current valid Certificate of Inspection issued by its government and whose government has inspection laws approximating those of the U.S., and that by its laws accords similar privileges to vessels of the U.S.



## MARITIME & COAST GUARD AGENCY (MCA)

In 1998, the UK’s Maritime and Coast Guard Agency (MCA) introduced the Large Commercial Yacht Code, a set of requirements more suited to yachts than the regulations in SOLAS, Load Line, and Standards of Training, Certification, and Watchkeeping (STCW) international conventions of the International Maritime Organization (IMO). This was made possible by the provisions in the conventions for Flag States to adopt equivalent standards.



Upon completion of the Code, the MCA formally advised the IMO of its intention to use the Code to certificate large yachts instead of the applicable requirements of the before mentioned conventions. IMO disseminated the UK notification of the equivalent provisions in accordance with IMO protocol via Circular letter No. 1996. The British Registries represented by the MCA at IMO include Bermuda, Gibraltar, British Virgin Islands, Isle of Man, Cayman Islands, and the United Kingdom. Sport or pleasure yachts compliant with the Large Commercial Yacht Code may carry up to 12 passengers in commercial service (i.e. for hire) on international voyages and must be classed in accordance with MCA Large Commercial Yacht Code section 4 by the following recognized societies: ABS, BV, DNV, GL, LR, or RINA.

## DEFINITIONS

*46 USC 2101, 46 CFR 175.400, 46 CFR 24.10-1*

**Small Passenger Vessel:** means a vessel of less than 100 gross tons as measured under Section 14502 of 46 USC, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—(A) carrying more than six passengers, including at least one passenger for hire; (B) that is chartered with crew provided or specified by the owner or the owner’s representative and carrying more than six passengers; (C) that is chartered with no crew provided or specified by the owner’s representative and carrying more than 12 passengers; (D) that is a submersible or wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire; or (E) that is a ferry carrying more than six passengers.

**Uninspected Passenger Vessel:** means an uninspected vessel—(A) of at least 100 gross tons as measured under section 14502 of 46 USC, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—(i) carrying not more than 12 passengers, including at least one passenger for hire; or (ii) that is chartered with crew provided or specified by the owner or the owner’s representative and carrying not more than 12 passengers; or (B) of less than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—(i) carrying not more than six passengers, including at least one passenger for hire; or (ii) that is chartered with crew provided or specified by the owner or the owner’s representative and carrying not more than six passengers.