

U.S. Department of
Homeland Security

United States
Coast Guard



Commandant
United States Coast Guard

2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: CG-3PCB
Phone: (202) 372-1051
Fax: (202) 372-1932

16750

APR 30 2007

Mr. Paul Donheffner
Director
State Marine Board
PO Box 14145
Salem, OR 97309-5065

Dear Mr. Donheffner:

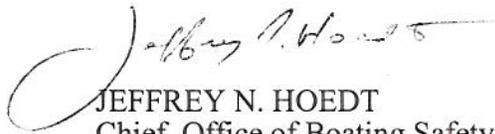
Thank you for your inquiry as to whether or not a "kiteboard" is considered by the U.S. Coast Guard to be a vessel.

In response to your request, my office has researched the criteria used and guidance provided in previous legal opinions regarding whether or not a specified device is a vessel under 1 U.S.C. § 3.

Based on the information available, the Coast Guard has determined that, when beyond the narrow limits of a swimming, surfing or bathing area, the device known as a "kiteboard" is a vessel under 46 U.S.C. § 2101, and therefore subject to applicable regulations administered by the U.S. Coast Guard and its Office of Boating Safety, unless specifically exempted.

Thank you again for bringing this matter to our attention. If there is any additional information or clarification that I can provide, please do not hesitate to contact me.

Sincerely,


JEFFREY N. HOEDT
Chief, Office of Boating Safety
U.S. Coast Guard



16750

MEMORANDUM

From: CHIEF, OFFICE OF BOATING SAFETY

Reply to: CG-3PCB-1
Attn of: JEFF LUDWIG
(202) 372-1061

To: FILE

Subj: LEGAL DETERMINATION ON VESSEL STATUS OF KITEBOARD

1. The Director of the Oregon Marine Board has asked whether the Coast Guard considers a kiteboard to be a vessel for purposes of Navigation Rules, accident reporting, and safety equipment, i.e., personal flotation devices, carriage requirements (Enclosure 1). The Director reported that kiteboarding is a recent phenomenon on the Columbia River in Oregon. The sport involves a person riding on a board, similar to a surfboard and being propelled by a kite with a tether, with control lines, and harness attached to the rider. The kite propels the rider and board at considerable speeds and they are being operated on navigable waters (Columbia River). The State is receiving complaints from other boat operators about the behavior of kiteboarders, the potential for passing boats to snag on the kite tether or steering lines, and violations of the navigation rules.
2. In response to the request, we have researched the criteria used and guidance provided in previous Chief Counsel Opinions regarding whether or not a specified device was a vessel under 1 U.S.C. 3 and used the typical criteria for preparing an analysis of this device (Enclosure 2).
3. Based on the information available, the Coast Guard has determined that, when beyond the narrow limits of a swimming, surfing or bathing area, the device known as a "kiteboard" is a vessel under 46 U.S.C. 2101, and subject to regulations administered by the U.S. Coast Guard and its Office of Boating Safety, unless specifically exempted.

#

Enclosures: (1) E-mail from Director of the Oregon Marine Board via CGD 13
(2) Parameters for determining whether a kite board is a vessel

Copy: CG-0941; CG-3PWN; CG-3PCV

PARAMETERS FOR DETERMINING WHETHER KITEBOARD IS A VESSEL

Criteria adopted by the Coast Guard legal office, utilizing case law and other references, to be used to determine if a device is a vessel are shown in bold face.

(1) Whether the watercraft is “practically capable” of carrying persons or property beyond the narrow limits of a swimming, surfing, or bathing area:

A kiteboard is “practically capable” of and intended to be used as an extreme wind-powered watersport beyond the narrow limits of a swimming, surfing, or bathing area. It combines traits of surfing, sailboarding, wakeboarding and kite flying. In kiteboarding, a person is towed behind a parasail, directed by 2-4 control lines, connected to the kite by a harness/tether, and riding on a wakeboard or surfboard with foot straps. The kite provides traction and pull, while the board provides flotation and maneuverability in combination with directing the kite.

Kiteboard manufacturers depict the device as an extreme wind-powered watersport involving high speeds and aerial leaps and jumps. However, for novices and less thrill-seeking users the craft is used to simply tow oneself along the water surface.

(2) Whether the useful operating range of the device is limited by the physical endurance of its operator:

A parasail kite provides traction/tow to the person by a harness tether, with the board attached to the person by straps, providing flotation and maneuverability. Although the harness/tether relieves the user of needing great strength and endurance to hang on, distance is subject to the user’s endurance to grasp the kite steering harness and maintain position on the board strapped to the user’s feet. This potential physical endurance limitation is similar to that impacting sailboarding, paddle sports and other boating activities requiring higher levels of physical capability.

(3) Whether the device presents a substantial hazard to navigation or safety not already present:

Kiteboards maneuvered across a waterway to locations where other larger and faster craft travel present a substantial hazard to navigation or safety not already present, as the kiteboards are not as powerful or maneuverable as the larger craft. The kiteboard user faces a similar hazard as users of a sailboard or tow-behind in the same location.

There are kiteboarding competitions in harbors, bays and coastal areas. Kiteboards also have been used to transit from the Farallon Islands to San Francisco Bay, from Catalina to Long Beach, from Florida to Cuba, and to cross the English Channel.

PARAMETERS FOR DETERMINING WHETHER KITEBOARD IS A VESSEL

(4) Whether the normal objectives sought to be accomplished by the regulation of a device as a “vessel” are present:

As a potential hazard to navigation or safety, regulation of kiteboards as vessels would meet the normal objectives sought to be accomplished by the National Recreational Boating Safety Program.

(5) Whether the operator and/or cargo would no longer be safe in the water if the device became disabled.

Kiteboards would provide a minimal level of safety to operators if they became disabled. Thus, the operator may no longer be safe in the water if the device became disabled.

Conclusion.

1 U.S.C. 3 states that "The word ‘vessel’ includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water." Given the answers to the questions above and the definition of the word “vessel” in the US Code, when utilized beyond the narrow limits of a swimming, surfing, or bathing area, a kiteboard is a vessel subject to regulations administered by the U.S. Coast Guard and its Office of Boating Safety.