

U.S. Department  
of Transportation  
**United States  
Coast Guard**



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United States Coast Guard

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16755

NOV 18 1999

Mr. Ted Woolley  
Boating Law Administrator  
Division of Parks and Recreation  
1594 W. North Temple, Suite 116  
Box 146001  
Salt Lake City, Utah 84114-6001

Dear Mr. Woolley:

This letter is in response to your inquiry regarding the exemption of kick boats and float tubes with electric motors from the numbering provisions.

As Jan Giles of our staff advised you by telephone, a motorized float tube is a vessel equipped with propulsion machinery and therefore must be numbered. Federal statute (1 U.S.C. 3) deems a "vessel" to be "every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the water." As like any other vessel, float tubes are subject to the rules of the road, including lighting requirements.

While 46 U.S.C. 12303(b) gives the Coast Guard the authority to allow a State to except a vessel or class of vessels from numbering requirements, the Coast Guard's position, as stated in our August 28, 1996 letter to Idaho, is that all undocumented vessels equipped with propulsion machinery of any kind shall have a number issued by the proper issuing authority in the State in which the vessel is principally operated.

A State is eligible to receive Federal financial assistance for its recreational boating safety (RBS) program (as authorized in 46 U.S.C. Chapter 131) only as long as the State's RBS program meets the requirements set forth in 46 U.S.C. 13102(c), which includes a valid numbering system. Federal law (46 U.S.C. 12301) states:

"An undocumented vessel equipped with propulsion machinery of any kind shall have a number issued by the proper issuing authority in the State in which the vessel principally is operated." (Emphasis added)

NOV 18 1999

Please let us know if we can provide you with more information or any assistance in this matter. If you have any questions, please contact your Program Coordinator, Jan Giles, at (202) 267-0911.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. F. Holmes', written in a cursive style.

M. F. HOLMES  
Captain, U. S. Coast Guard  
Chief, Office of Boating Safety  
By direction of the Commandant



16750

FEB 13 1995

Mr. Fred Messmann  
Boating Law Administrator  
Nevada Department of Conservation  
and Natural Resources  
Division of Wildlife  
P.O. Box 10678  
Reno, NV 89520-0022

Dear Mr. Messmann:

This is in reference to your letter dated December 28, 1994, in which you asked whether or not the Coast Guard considers a "float tube" a vessel.

While your letter does not define what a "float tube" is, nor did it include any pictures or pamphlets of these craft, we assume that you are referring to a tube (typically a nylon encased rubber inner tube(s) or a hard plastic tube) that has a built in seat, with the operator's legs sticking through the seat and dangling in the water below the tube. They often have small storage compartments for fishing or other gear. The operator, typically a fisherman, wears swim fins to manually steer and/or propel the craft, and often wears chest waders to maintain heat and stay dry. Non-motorized float tubes are propelled by the use of the swim fins; motorized float tubes are propelled by an electric or hand pump motor, with the operator using the swim fins to steer the craft and sometimes to assist in its propulsion.

Federal statute (1 U.S.C. 3) deems a "vessel" to be "every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the water." The courts have modified this expansive definition by determining that the word "capable" should be read "practically capable." Evansville & Bowling Green Packet C. v. Chero Cola Bottling Co., 271 U.S. 19, 22, 46 S.Ct. 379, 380, 70 L.Ed. 805 (1926). In making determinations on the status of whether a watercraft is a vessel, the Coast Guard has developed several criteria to apply Evansville: (1) whether the watercraft is "practically capable" of carrying persons or property beyond the narrow limits of a swimming, surfing, or bathing area; (2) whether the useful operating range of the device is limited by the physical endurance of its operator; (3) whether the device presents a substantial hazard to navigation or safety not already present; (4) whether the normal objectives sought to be accomplished by the regulation of a device as a "vessel" are present; and/or (5) whether the operator and/or cargo would no longer be safe in the water if the device became disabled.

In applying those criteria to a float tube: (1) it has been observed that they are typically used to carry a person beyond the narrow limit of a swimming, surfing, or bathing area; (2) the range of a non-motorized float tube is limited by the physical endurance of its operator, more so than is the range of a motorized float tube; (3) waterway user conflicts between float tubers and "common" types of boaters (i.e. "speedboats", water-skiers), and accidents involving float tubes, have been reported and appear to demonstrate that the use of a float tube presents a substantial hazard to navigation or safety not



present before the use of float tubes; (4) a colorable argument can be made both for and against whether the normal objectives sought to be accomplished by the regulation of float tubes as a "vessel" are present; and/or (5) the float tube operator may no longer be safe in the water if the device became disabled.

Obviously, all the criteria outlined above will not be applicable to every watercraft for which there is a question of status. We must stress that there is no set formula for making vessel determinations; each determination must be made on an individual basis.

In response to your question of whether float tubes are vessels, we are not aware of any judicial precedent being established that would assist in this determination. Absent this, answers to the above criteria lead us to our opinion that float tubes are "vessels."

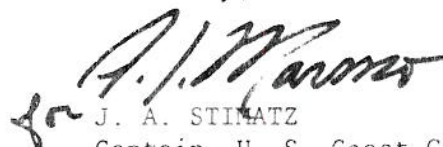
You also question which requirements would apply to float tubes if they are considered "vessels." All vessels are subject to the rules of the road, including lighting requirements. Other requirements vary for non-motorized float tubes as compared to motorized float tubes. A motorized float tube is a vessel equipped with propulsion machinery and therefore must be numbered.

With regard to PFD carriage requirements, the Coast Guard does not consider tethering a PFD as meeting the requirements for PFDs to ~~be~~ readily accessible (33 CFR 175.19).

Finally, you asked whether the Coast Guard considers float tubes to be "boats" for the purposes of Federal regulations applicable to boat manufacturers. For inflatable float tubes, the only manufacturer requirements that apply are the regulations covering Hull Identification Numbers and Defect Notification (manufacturer recalls).

I hope this information will assist you.

Sincerely,

  
for J. A. STINATZ

Captain, U. S. Coast Guard  
Chief, Auxiliary, Boating, and  
Consumer Affairs Division  
Office of Navigation Safety and  
Waterway Services  
By direction of the Commandant