



# Marine Safety Information Bulletin

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## Guidance for Passenger Vessel Charter Operations

This Marine Safety Information Bulletin (MSIB) supersedes MSIB 003-19 and is intended to provide updated guidance for owners and potential charterers of vessels of less than 100 gross tons. The recreational boating season routinely sees an increase in individuals and companies chartering out their vessels to members of the public. Prior to securing these charter opportunities, it is important to ensure the legality and safety of the operation. Any vessel (chartered or not) that is operated as a Small Passenger Vessel (SPV) inspected under [Title 46 Code of Federal Regulations \(CFR\) Subchapter T](#) or Uninspected Passenger Vessel (UPV) defined in [Title 46 U.S. Code \(USC\) § 2101](#) is operating in commercial service, and is subject to many federal laws, such as U.S. Coastwise trade laws, crew drug testing laws, and licensing laws for the person in direction and control of the vessel. A vessel that is operated as a recreational vessel is not in commercial service, and therefore is not subject to the same coastwise trade, drug testing, and licensing laws that are applicable to SPVs and UPVs.

It is extremely important that vessel owners, charterers, and masters have a strong understanding of how to evaluate their vessel operations, to determine whether or not the vessel's operation will be classified as a recreational vessel, SPV, or UPV for each individual voyage. The owner, charterer, and master of any vessel found to be operating as a SPV or UPV without meeting all federal requirements applicable to the vessel, are subject to enforcement actions which can result in significant monetary penalties and/or imprisonment.

Understanding the following information, definitions, and utilizing the below chart, can assist vessel owners, charterers, and masters in determining whether the vessel will be operating as recreational vessel, or as a SPV or UPV:

A vessel will *always* be operating in commercial service (SPV or UPV) when:

- it is carrying at least one *passenger for hire*
- it is chartered **WITH** *crew provided or specified* by the owner or owner's representative
- it is chartered **WITHOUT** crew provided or specified by the owner or owner's representative and carrying more than 12 passengers. (The charterer, master, and crew are not counted as passengers).

Passenger (46 USC § 2101(29)) means an individual carried on the vessel except:

- the owner or individual representative of the owner, or in the case of a chartered vessel, an individual charterer or individual representative of the charterer (**only one of these four can be excepted**);
- the master; or,
- 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 (46 USC § 2101(30)) means a passenger for whom consideration is contributed as a condition of carriage on the vessel.

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*Consideration* (46 USC § 2101(5)) 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 expense of the voyage, by monetary contribution or donation of fuel, food, beverage, or other supplies.

The following chart can assist in determining if a vessel is operating as a recreational vessel, or in commercial service as a SPV or UPV, based on number/type of passengers on board and the charter status of the vessel:

<b>What passenger requirements apply to your vessel (of less than 100 GT)?</b> Use the following chart, moving from top to bottom, left to right.				
Step 1	Step 2	Step 3, pick a column.		
Do you have at least one passenger for hire? <sup>1</sup>	Number of passengers/persons on your boat <sup>2,3</sup>	Not Chartered	Chartered without crew provided or specified by owner or owner's representative	Chartered with crew provided or specified by owner or owner's representative
No	6 or less	REC	REC	UPV
	7-12	REC	REC	SPV
	More than 12	REC	SPV	SPV
Yes	6 or less	UPV	UPV	UPV
	More than 6	SPV	SPV	SPV
Key: REC = Recreational Vessel    UPV = Uninspected Passenger Vessel SPV = Small Passenger Vessel (Inspected) Notes: <sup>1</sup> The charterer is NOT a passenger for hire (if chartered) <sup>2</sup> Do not count the master or crew <sup>3</sup> Do not count the charterer (if chartered)				

If a vessel owner is considering chartering their vessel, it is recommended that they thoroughly review and understand charter requirements and liabilities. Specifically, the owner should ensure that all parties are aware of the following points:

- The charterer is responsible for the operation and safety of the vessel, its crew, passengers, and all other persons aboard during the term of the charter.
- The charterer is responsible for ensuring that the vessel complies with all regulations that are applicable to the service of the vessel.
- The vessel owner may still be at risk to penalties or other law enforcement actions stemming from the charterer's misuse of the vessel.
- The master may also be held accountable for the safe operation of the vessel as well as ensuring compliance with all applicable safety equipment requirements.

If you intend to operate your vessel as an SPV or UPV, or have additional questions about chartering your vessel, it is strongly recommended that you reach out to your local Coast Guard Sector or Marine Safety Unit for guidance on the regulatory requirements for your intended operation. This MSIB is provided for information purposes only and does not relieve any domestic or international safety, operational, or material requirements.