

Fisheries, Aquaculture, and Tourism



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Carrying Passengers For Hire

- Coast Guard Vessel Regulations
- Foreign Constructed Vessels
- Americans With Disabilities Act
- Vessel Operator Licenses
- Fishing Permits



Coast Guard Vessel Regulations

- Uninspected Passenger Vessels
- Inspected Passenger Vessels



Uninspected Passenger Vessels

- Limited to 6 passengers for hire.
- Must be compliant with the federal safety, navigation and pollution prevention regulations
- Must conduct a safety orientation prior to departing the dock
- Subject to Coast Guard boarding inspections
- Coast Guard and Coast Guard Auxiliary perform complimentary vessel inspections



Inspected Passenger Vessels

- Certificate of Inspection
- Passenger and Crew Count
- Vessel Coast Guard Inspection
- Stability Inspection
- Life Saving Equipment
- May be endorsed to operate as a commercial fishing vessel



Foreign Constructed Vessels

In general no foreign vessel shall transport passengers between ports or places in the United States



Americans with Disabilities Act

- May not discriminate against any qualified individual with a disability
- Vessel owners and operators must take steps to accommodate passengers with disabilities
- Regulations apply to vessels that are primarily engaged in the business of transporting people
- Vessel owners are allowed to deny or restrict vessel access to individuals if there is a legitimate safety concern
- Must ensure that dock facilities are accessible and usable by individuals with disabilities



Vessel Operator Licenses

- Merchant Mariners Credential (MMC)
- Transportation Worker Identification Credential (TWIC)
- Marine Radio Operator Permit



Merchant Mariner Credential

- Required to have a valid MMC in order to carry passengers for hire
- Valid for five years
- Must apply and meet the regulatory requirements established by the National Maritime Center



MMC Application Requirements

- Complete the Coast Guard Application
- Pass a Coast Guard written examination
- Hold a Transportation Worker Identification Credential
- Pass a dangerous drug chemical test
- Evidence of sea time or vessel experience
- Physical Examination
- Coast Guard criminal and driving record background check
- CPR/First Aid Certification
- U.S. Citizenship
- Sworn in as a Merchant Mariner Officer



Marine Radio Operator Permit

- Required to operate a marine radio on board an inspected vessel
- Must speak English
- Must complete a 24 question written FCC examination
- Issued for an applicant's lifetime



Fishing Permits

- Maine's Wholesale & Retail Seafood License
 - Dockside sale of seafood
 - Sale directly to restaurants, hotels, and inns
- Marine Harvesting Demonstration License
 - Allowed to engaged in fishing activities to provide an educational demonstration of marine harvesting techniques
- Recreational Fishing Operator's License
 - Enables commercial fisherman to take passengers out to recreationally fish when a commercial fishing season is closed



Vessel Owner/Operator Liability

- General Maritime Law & Liability
- Death on the High Seas Act
- Maine's Wrongful Death Statute



General Maritime Law & Liability

- Federal Courts have original jurisdiction
- Vessel owners and operators owe their passengers a duty of reasonable care under the circumstances
- Owner and master of a vessel and the vessel itself are liable for any injuries to passengers or their baggage for failure to comply with a statute
- Generally there is a three year statute of limitation for which injured passengers may commence a suit
- Congress has also extended liability to injuries which occur on land



Death on the High Seas Act

- Representative allowed to bring a civil action against the person or vessel responsible when the death is cause by negligence
- Death must occur beyond three miles offshore
- Allowed to bring an action if the individual dies while the action is pending as a result of the vessel owner or operator's negligence
- Only applies to a decedent's spouse, parent, child or relative
- If the death occurs within the territorial waters of Maine then the Act does not apply



Maine's Wrongful Death Statute

- Applies to an individual who dies onboard a vessel while operating within Maine's territorial waters as a result of any negligence or wrongful act on the part of the vessel owner
- Any amount recovered is for the benefit of the surviving spouse and any minor children
- Two year statute of limitation to file suit



Limiting Vessel Owner Liability

- Marine Insurance
- Passenger Boarding Document
 - Waivers of Liability
 - Forum Selection Clause
- Limitation of Liability Act



Marine Insurance

- Many types of marine insurance: Hull insurance; crew insurance; cargo insurance and protection and indemnity (P&I) insurance
- Vessel and operational specific
- P&I insurance is the primary policy for third party liability.
- Insurance underwriters will impose operational and restrictions on a vessel owner
- Three activities insurance providers would evaluate: (1) What occurs prior to leaving the dock; (2) What risk reduction plans are in place; (3) What plans are in place should an incident occur.



Passenger Boarding Document

- Details the vessel's safety plan
- What passengers can expect onboard while onboard the vessel
- A vessel owner's waiver of liability
- A forum selection clause



Limitation of Liability Act

- Allows the owner of a vessel to limit their liability to the value of the vessel for any claim arising from injury, loss or destruction of property that occurred without the owner's knowledge
- Does not apply when the vessel's owner is also the vessel's operator
- A motion to limit liability must be filed within six months upon receiving written notice of a claim for damages



Aquaculture Farms

- Owner/Operator Liability
- Recreational Use Statutes
- Passenger Vessels
- Bio-Security
- Insurance



Owner/Operator Liability

- A property owner owes a positive duty of exercising reasonable care in providing a reasonably safe premises when that owner knows or should have known of a risk to the customer on their premises
- Recreational Use Statutes
 - Would not apply if tourists pay to visit the aquaculture facility



Bio-Security Plan

- The protection of fish or shellfish from infectious agents
- Goal is to reduce the risk of disease introduction, minimize spread of disease, promote fish health, protect dish health, protect economic investment and reputation and protection of human health
- Customized to that specific aquaculture farm



Aquaculture Insurance

- Primarily property insurance and not liability insurance
- Would want to acquire third party liability insurance which is known as an umbrella policy
- Warning signs should be posted throughout the facility
- Facility inspections should be performed regularly
- Written plan for treating any injuries and documenting any injuries which occur



Business Organizations

- Several Business Organizations to Choose:
 - Sole Proprietorship
 - General Partnership
 - Limited Partnership
 - Limited Liability Partnership
 - Limited Liability Company
- Piercing the Corporate Veil

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