



## Americans with Disabilities Act

Operators of charter and small passenger vessels have about three months to express their opinions to the federal government concerning how new rules, written to implement the Americans with Disabilities Act (ADA), will affect their operations and the design and construction of their vessels.

The ADA, in essence, requires that all public facilities and conveyances, and all private (commercial) facilities and conveyances that are used by the public, are accessible to all persons, irrespective of physical and even mental handicap. Up to now the government hasn't written specifications for small passenger and charter vessels because of the special challenges posed by the tight confines and special operating

circumstances of boats. However, that is soon to change, and the Department of Transportation's Access Board is seeking input on how to make smaller vessels handicapped-accessible without imposing excessive costs and other burdens on operators.

The federal DOT published an Advance Notice of Proposed Rulemaking (ANPRM) in the Federal Register of Nov. 26, 2004. In it the government poses a number of questions for the passenger vessel industry to address. Written input is solicited up to the deadline of March 28, 2005.

It is unclear at this time whether ADA requirements will be imposed on vessels as small as "six-pack" and

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## Bareboat Deductions

Owners of vessels used in bareboat charter operations should be aware of a recent U.S. Tax Court decision in Washington State that may result in a far less favorable tax environment than they have enjoyed up to now. The alert comes by way an article in the *Seattle Post-Intelligencer*, Nov. 11, 2004, linked by the National Marine Charter Association (NMCA) Web site.

Bareboat chartering is the enterprise in which a boat is rented out, usually for recreational purposes, for a brief

time, without captain or crew. Vessels usually are owned by investors or private individuals who want to defray the costs of ownership of a yacht that they wish to use only occasionally for their own recreation. The boats usually are managed as part of fleets kept by charter booking and management agencies.

Owners can deduct all the usual business expenses, including loan interest, insurance, repairs, maintenance, depreciation, and even

personal expenses associated with purchasing and maintaining the vessel, against their personal income. It is generally understood that bareboat charter boats rarely if ever make a profit for their owners, but the charter arrangement helps defray the costs of ownership, and the write-offs can save the owners big money on their taxes.

The hitch arose earlier this fall when the tax court ruled against a Washington couple's appeal of an earlier IRS judgment ordering them

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## Continued ... **Americans with Disabilities Act**

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small party fishing boats, but there is nothing in the notice that indicates they won't. The definition of "small passenger vessel" in the notice is vessels that carry fewer than 150 passengers or fewer than 49 overnight passengers.

Previously Access Board officials have stated that the ADA pertains to all vessels, regardless of size or capacity, but specific standards have yet to be devised for smaller boats. They have stated that all boats used in public conveyance have to be accessible, but few if any complaints against small charter boats have been prosecuted.

Some topics on which the Access Board is seeking comment from the industry:

- Vessel Size—Should distinctions be made based on Coast Guard inspection categories, vessel length or displacement, or other criteria?
- Applicability—What should be considered a "new vessel" for the requirement of full compliance, and how should a vessel's status be determined?
- Barrier Removal and Program Accessibility—How should decisions be made regarding requirements to remove barriers to accessibility on existing vessels?
- Shore to Vessel Transition—In general the ports and marinas have the responsibility to provide accessible floats and ramps, but to what extent must the vessel operators provide for the transition from the dock to the boat? Should vessel operators have greater discretion in using crew members to assist transition?
- Access to On-Board Facilities—Should accessibility to parts of the vessel, such as restrooms, snack bars, etc. on board boats be treated differently from other kinds of facilities and conveyances?
- Securement—Should smaller boats be required to have deck fittings for securing wheelchairs?
- Accessible Cabins—Can and should all classes of cabins be wheelchair accessible?
- Vision and Hearing Impairments—What provisions should be made for people with hearing and sight impairments to ensure that they are alerted to emergencies, informed of events, and provided entertainment?
- Service Policies—How should operational policies be designed to be non-discriminatory?

The complete ANPRM is on pages 69246-69250 of Federal Register No. 277, Vol. 69.

For more discussion of these questions, follow the links on the NACO Web site at [www.nacocharters.org/](http://www.nacocharters.org/) and the government site at [www.accessboard.gov/news/pvag.htm](http://www.accessboard.gov/news/pvag.htm). 

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## Continued ... **Bareboat Deductions**


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to pay thousands of dollars in taxes because of incorrectly claimed deductions. The particular issue in the case is that the couple applied the losses on their bareboat charter boat against income earned from other sources. The court ruled that they could claim deductions and losses on the bareboat—which are called "passive"—only up to the break-even point of the bareboat business itself, not against earned ("active") income.

The IRS has applied certain standards for determining what is "passive" and "active" income, and in some cases a

bareboat charter boat could produce "active" income. Complex IRS rules provide that a boat may be classified as a business and the losses may be applied against other "active" income under several sets of circumstances, including (1) if it makes a profit three years out of five, (2) if the owner works on it at least 500 hours a year, or (3) if the owner commits the boat to the customer (in this case the charter agency) for less than seven days at a time.

Owners who operate their vessels with clients aboard are likely to

meet the "active" or "business" test, although it is advisable to document at least 500 work hours annually on the boat business, as well as aggressive attempts at marketing, expenditures for advertising, and other evidence that they are sincerely trying to make a profit, whether the operation is profitable each year or not. Under current interpretations these steps should allow them to continue to apply charter boat losses against other kinds of income. 

# Charter IFQ Update

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Crab rationalization has usurped a lot of NMFS staff time that would have gone into preparation of the halibut charter individual fishing quota (IFQ) regulations. NMFS staff is still putting the program into regulation language, and it will be a while before the proposed rule is published.

Once it is written there will be legal reviews in Juneau and Washington, then a comment period, then comments will be summarized, the agency will respond to comments, and a final rule published.

Following a 30-day “cooling off period” the initial quota shares will be issued, and then a year will pass before fishing will begin under the IFQ program.

Glenn Merrill in NMFS Sustainable Fisheries Division says the quota fishery likely will begin in 2007, or 2006 at the earliest.

Meanwhile, questions and rumors about the program are flying. Phil Smith, Restricted Access Management (RAM) Division, has prepared a presentation that addresses the key points of the program. Following are some of those points.

## Some IFQ Facts

- The IFQ program will not limit access to subsistence or recreational fishing.
- It will not permit sale of fish; the fish caught on charter boats and applied against charter quotas will belong to the anglers who catch them.
- Initial quota allocations will be 125% of the average harvests 1995-1999 and will be 35% greater than year 2000 harvests.
- IFQ permits will be issued in numbers of fish (not pounds) which will be derived from the

average weight of halibut in each district.

- Charter QS will be freely transferable within the charter sector, and may be transferred from—but not to—commercial operators.
- When regulations are final NMFS will announce an application period via newspapers, radio, and posters, plus individual notice to people who appear to be eligible based on logbook reports. Those who apply during the application period will be notified of their allocation, and there will be a 30-day appeal period.
- Holding will be capped at a percentage of the total QS pool.
- Limited leasing will be allowed.

- Up to 10% of unfished IFQs can be carried over to the next year.
- Charter QS will not be issued in blocks or with vessel categories, and commercial blocked QS may be split when re-transferred within the charter sector.
- A “set-aside” of 1% of the total annual IFQ will be reserved for use by communities that qualify under the community economic development quota program. If used, this amount will increase annually to a maximum of 2%, and if not used will revert to the commercial and charter sectors.
- Reporting system and requirements are still under development. ⚙️

## NACO in Seattle

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The National Association of this Charterboat Operators (NACO) will hold its annual meeting this month in Seattle—the first time ever in the western U.S. The dates are Jan. 19-22, at the Crowne Plaza Hotel. The meeting coincides with the Seattle Boat Show.

In addition to the association’s annual business meeting, the get-together will feature the following speakers: Dan Longman on insurance, Dr. Churchill Grimes on the National Marine Fisheries Service, John Dwyer on inspections for inspected and uninspected vessels, Rick Smith of Simrad on fish finders and sonars, Dick Gee of Northern Lights Lugger on engine maintenance, Brian Coleman of Emerald Harbor Marine on marine electrical maintenance, Dennis Anderson and Steve Mapau on Web site building and maintenance, Rob Kramer on the International

Game Fish Association, Gary Schaefer and Mike Perusse of G. Loomis on fishing rods, a speaker from Kruger and Sons on propeller maintenance and selection, Terry Johnson with the Alaska Marine Advisory Program on seasickness prevention and on the Sea Grant system and Paul Beattie on the new Americans with Disabilities Act rules.

The Crowne Plaza is offering special lodging rates, and bargain tickets to Seattle are available this time of year with advance notice.

Three Alaskans, Tim Evers of Niniichik, Andy Mezirow of Seward and Bob Ward of Anchor Point are among NACO’s officers and board members.

Check the NACO Web site at [www.nacocharters.org](http://www.nacocharters.org) for more details on the meeting, and for reservation forms. ⚙️

# Homeland Security

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The Bush administration's effort to make America safe from terrorists may soon begin exercising control over some aspects of small charter boat operations.

To date the government has announced rules that would require some charter vessels to carry expensive (estimated more than \$9,000 each) automated identification system devices, produce and adhere to written security plans and submit to expanded security oversight by the Coast Guard's regional Captain of the Port. In addition, facility security plans are required for ports, harbors and marinas that are used by some charter operations.

The current issue of the online newsletter the National Association of Chart Boat Operators (NACO) reports on discussions between NACO's president and the Coast Guard on

these security measures. As it stands now, few if any small charter boats that operate entirely inside Alaska waters (that is, don't cross into Canadian waters) will be directly affected by these measures. However, the language of the maritime security rules recently handed down by the government make it clear that additional classes of vessels and vessel operations may be brought under the provisions of the rules.

Check the NACO Web site at [www.nacocharters.org/maritime\\_security.php3](http://www.nacocharters.org/maritime_security.php3) for more details.

Meanwhile, the Coast Guard is calling on professional mariners, including commercial fishermen and charter boat operators, to participate in an informal program known variously as American Fishermen on Watch, Maritime Domain Awareness or Marine Domain Awareness (MDA)

by reporting any "suspicious activity" in the areas where they operate. Suspicious activity includes boats fishing or otherwise operating in unusual locations, unattended boats, unusual filming or photography, people throwing items into the water or recovering items from the water, flashing lights between vessels, unusual transfer of persons or items while transiting, unusual diving activity, unusual fishing or hunting activity, unusual night operations and changes in or lack of security.

The toll-free number for the National Response Center is 1-800-424-8802. This number is also used to report oil spills, hazardous materials spills, security breaches and terrorist activities. Don't be surprised if you have to work your way through a voicemail system and then wait for several minutes before reaching an attendant. ☎

## Injuries on Board

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Both the boating press and the charter boat industry newsletters have committed a lot of ink recently on the subject of injuries on board.

By some counts, the majority of claims filed against charter boat insurance policies by clients have been the result of on-board injuries, many of them the result of carelessness by operators and crew. These claims can be very expensive to insurers, and to operators if insurance doesn't pay because of operator negligence, or if the claim or award is greater than the limit of the policy. Furthermore, it's just bad business to have clients get hurt, as well as a violation of common decency to prevent injury of anyone when possible.

There are no data on charter boat injuries in Alaska, but press reports

indicate the kinds of on-board injuries that occur in recreational boating and the charter industry nationwide. Following is a short list of common injuries. In most cases the means of preventing them is self-evident.

- *Slips and falls.* Most victims are elderly or in poor physical condition. Many occur on board or while disembarking. Many are related to alcohol consumption. Some can be prevented by improving non-skid deck surfaces and providing additional grab rails or handholds. Operators should closely supervise passengers as they embark and disembark, and physically assist them where appropriate.
- *Closely related is tripping on* doorsills, gear improperly stowed on deck and other difficult-to-see impediments. People also fall due to inadequately attached equipment and furniture in the boat. Everything that is attached must be securely attached, and decks must be kept free of lines, gear and other obstruction.
- *Injuries from rough sea conditions* are common, especially back injuries due to vessel pounding. Passengers also get hurt by being thrown around the cabin or deck during severe rolling. Prevention lies in slowing down in rough weather, ensuring passengers are seated and providing adequate handholds or grab rails.
- *Injuries from equipment and machinery.* It's sometimes surprising to a professional boat

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operator just how incompetent passengers can be at simple tasks aboard. Often passengers want to help with jobs like hoisting skiffs or tying and untying the boat at the dock. Unless you are absolutely certain of their capabilities, it's probably best to decline their offer and make them stay clear of the action. Never allow passengers to get involved in setting or retrieving the anchor, or tying up the boat in a tide or wind. The chances of their being seriously hurt is just too great.

- *Cuts.* Contrary to popular belief, a dull knife is more dangerous than a sharp one, because a user tends to apply more force and is more likely to slip. Keep knives razor sharp, and out of the reach of passengers. All boat operators should keep a sharp knife, preferably with a serrated blade, on them at all times in a location where it can be employed with one hand. Nothing looks quite so foolish as a professional mariner asking to borrow a passenger's knife, particularly in an emergency where clearing lines or freeing safety gear could be a life-or-death matter.
- *Dehydration* maybe isn't classified as an injury, but it is a common condition that can affect the enjoyment of the trip, and in some cases can harm a passenger's health. Children, in particular, are susceptible to dehydration, as are seasick people. But almost everyone gets to some extent dehydrated when exposed to sun and wind. The first symptom is headache, which usually can be prevented or treated with an ample supply of low sugar, non-alcoholic drinks. The so-called "sports drinks" also contain other nutrients, but some have some sugar and

may increase thirst even if they are rehydrating the body. Plain bottled water works great for most people. Some people need to drink a gallon of water a day when exposed to the weather.

- *Heat exhaustion and heat stroke* are not common on Alaska's coastal waters, but they do occur, particularly where physical exertion is involved. Know the symptoms and treat aggressively at the first sign of heat exhaustion. Again, the first line of defense is plenty of liquids.
- *Jellyfish stings* affect some people more than others, and some individuals can experience severe allergic reactions. The stinging agent is an alkaline compound, so the topical treatment is a mild acid, such as vinegar. Alcohol wipes and meat tenderizer also are reported to help. The stinging tentacles can dry to a powdery substance that gets into clothing and boat furniture and cause misery long after the encounter with the jellyfish. Wash down your gear, decks and shared items after jellyfish problems.

For further information on treating injuries see *Waterwise* by J. Dzugan and S.C. Jensen ([http://www.uaf.edu/seagrant/Pubs\\_Videos/pubs/MAB-51.html](http://www.uaf.edu/seagrant/Pubs_Videos/pubs/MAB-51.html)) and *Beating the Odds on Northern Waters*, by S.C. Jensen and J. Dzugan ([http://www.uaf.edu/seagrant/Pubs\\_Videos/pubs/MAB-41.html](http://www.uaf.edu/seagrant/Pubs_Videos/pubs/MAB-41.html)), both published by Alaska Sea Grant College Program.

### **First Aid Kits**

Although no law requires it, a commercial operator would be seriously negligent not to carry a well-stocked, accessible first aid kit, with all the perishable contents up to date. It's also important to study the contents, read the instructions, and know how to use what's there.

The Coast Guard–mandated first aid and CPR training does not teach how to use a first aid kit to treat most common on-board injuries and maladies.

Good marine-grade kits are available from survival equipment stores and marine supply houses. Basic units cost only \$100 to \$200; the more expensive kits are for long-range cruising or operating in areas so remote that there's little chance of getting a victim to professional medical care within a few hours.

### **Passenger Care**

Many of us came to chartering from commercial fishing or similar "manly" pursuits, and we consider a few nicks, gouges and bruises just part of a day's work. Our clients, however, may be much more upset by minor injury. Take any injury, no matter how minor, very seriously at least until the victim declares it not to be serious. Offer treatment immediately, if just a band-aid, and in the case of anything more serious provide for immediate care even if it means returning to town to send the victim to a hospital.

Offer to pay for any treatment; chances are your insurance will fully reimburse you, and the public relations is very important. Tort lawyers say that a big factor in whether injured individuals sue, and how big settlements turn out to be, is how they feel they were treated at the time of the injury.

Another way to minimize the legal consequences of passenger injury is through a well-crafted liability release. Increasingly, insurers require them. See the article on liability releases on page 6. 🌀

# Liability Releases

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Are you using liability releases, or liability waivers? You've probably heard they "aren't worth the paper they're written on," and any good lawyer can "pierce the veil" of a liability release to get an injured client a substantial damage award.

However, some insurance carriers know their customers use liability releases. The key to a release's effectiveness is, at least in part, in its specific wording and the circumstances under which it was obtained and applied.

There are really two different purposes of releases. One is "informed consent" or "assumption of risk" and it essentially says that the client understands that the activity on which he/she is about to embark has certain inherent risks, and is taking them willingly. The other is a liability waiver, in which the signer agrees not to sue the service provider (outfitter, boat operator) if anything bad happens.

## Effective Wording

Releases that combine both features are being used successfully in many kinds of activities, including outdoor adventure, skiing, equestrian and outdoor education. Following are some recommendations for a good informed consent/liability release.

- The document should stand alone, rather than as part of other company literature. It should have the company's name at the top and a title identifying it as a liability release.
- The wording must be clear, unambiguous, simple and understandable.
- Wording should clearly state that the activity has inherent risks, and list all the specific risks.
- It should state that the signer is assuming these risks, that is, taking upon him/herself the

responsibility for his/her actions, and waives any personal injury claim resulting from participating in the activity.

- The release should state that it is based on "consideration" which means that the person is signing it in exchange for being allowed to participate in the activity.
- It has to be signed by an adult, including a parent or legal guardian in the case of a child.

Note that even if a participant assumes the risk, the document does not shield the operator from liability in the case of gross negligence or recklessness.

## Getting It Signed

A properly written release is only part of the job. It is important that

the participant have an adequate opportunity to read and understand it. Furthermore, the client should have the opportunity to choose to participate in only part but not all of the covered activity, or to withdraw from participation altogether. Handing out releases after the vessel is already underway does not meet this standard.

It's important to remember that a liability release is not a substitute for liability (or P&I on a vessel) insurance. It has no legal power to prevent an aggrieved client from suing; at best it might encourage the plaintiff's attorney to settle out of court, and it may lower the award amount if it goes to trial. You still need your insurance to cover the costs of your defense, and to pay any award that may result. ⚙️

# On-Bottom Clams

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The outgoing Commissioner of the Alaska Department of Fish and Game, Kevin Duffy, has withdrawn a proposal by his department that on-bottom clam farming be permitted in Kachemak Bay. The proposal would have required a change to the existing regulation prohibiting on-bottom farming in the Kachemak Bay and Fox River Flats Critical Habitat Areas Management Plan.

Mariculture advocates had requested that on-bottom farming, primarily for littleneck clams, be permitted in conjunction with existing suspended-culture shellfish farming in Kachemak Bay, which is primarily for oysters. The department conducted informational meetings in support of the proposal, which followed a Murkowski administration policy of promoting economic development.

The proposal was overwhelmingly opposed by Kachemak Bay area

residents, who cited concerns over potential spatial conflict with recreational and subsistence activities, as well as potential for biological conflicts. Public hearings and open periods for written comments produced a deluge of sentiment against the proposal.

Commissioner Duffy, who recently made public his plan to retire and take a fishing industry job in Seattle, announced after the testimony period that the department would not pursue the change in critical habitat area regulations. ⚙️

# NOAA Recreational Fisheries Strategic Plan

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NOAA Fisheries, also known as the National Marine Fisheries Service, is developing the Recreational Fisheries Strategic Plan, which is intended to guide NOAA's sport fishing-related programs and activities through the year 2009.

Currently NOAA Fisheries has relatively little connection to the recreational fishing industry in Alaska, unlike many other coastal states, because aside from some halibut fishing relatively little of our sport fisheries occur in the federal management zone outside of three miles from shore. NOAA does have some responsibilities pertaining to sport and charter fishing for halibut, responsibilities that are divided among NOAA, the state and the International Pacific Halibut Commission.

However, NOAA's influence is growing in several arenas, including its initiative to promote offshore aquaculture and marine protected areas, and through its administration of the National Sea Grant Program. The sport fishing industry in Alaska would be well advised to keep up to date on NOAA Fisheries plans.

The draft plan, issued in the spring of this year, lists five science objectives, six management objectives, and four outreach objectives. Some are administrative or procedural, and most seem to be logical and potentially productive.

Few appear at first glance to raise red flags. One is a point under "Promote the effective application of fishery management tools," which is an objective of the management goal, contains language such as "Promote the use of marine managed and protected areas, artificial reefs, and aquaculture. . . ." Angling groups in some parts of the country consider

marine protected areas to constitute a threat to sport fishing, and aquaculture has a mixed reputation here in Alaska.

## Goals and Objectives

*Science goal statement*—Exceptional marine angling opportunities supported by cooperative, timely, credible, and accurate science.

1. Support data collection and research that matches management needs.
2. Promote the use of advancing technologies in science and data management.
3. Ensure that data is comparable.
4. Maintain and expand the collection of economic and social data and the development of policy relevant models.
5. Improve the understanding of habitat influence on marine life and population health.

*Management goal statement*—Improved Marine Recreational Fishing through Better Management


1. Evaluate the status of recreational fisheries management and identify opportunities for improvement.
2. Promote the effective application of fishery management tools.
3. Make the fisheries management process more open and accessible to the public.
4. Promote measures that reduce bycatch/discard mortality.
5. Promote conservation of healthy populations and recovery of overfished stocks by improving compliance with regulations.
6. Improve intra-agency marine recreational cooperation.

*Outreach goal statement*—Promote recreational fishing opportunities, heighten awareness of marine recreational fishing issues, and advance marine conservation principles.

1. Increase awareness of NOAA's conservation partnership with individual anglers by promoting environmental stewardship practices and educating anglers on NOAA's role in supporting healthy and viable marine recreational fisheries.
2. Ensure that marine anglers and appropriate agencies are informed in a timely manner regarding information and issues relevant to marine anglers.
3. Improved interagency function and collaboration with tribal, state, and federal partners on issues related to recreational fisheries.
4. Expand the use of technology to streamline the consultation and education process, improve the efficiency of information exchange and increase the timely distribution of recreational fisheries information.

It is encouraging to note that the draft plan includes several references to working cooperatively with anglers and with other agencies; employing advancing technologies; improving environmental literacy, outreach and education; and making the management process more open and accessible to the public.

Since the draft was issued NOAA Fisheries has held nine regional meetings to gather input from anglers, charter boat operators and management agencies. Input is being used to prepare a final plan, to be completed by March 2005.

The draft strategic plan is available at [www.nmfs.noaa.gov/recfish/rfstratplandraft4.271.pdf](http://www.nmfs.noaa.gov/recfish/rfstratplandraft4.271.pdf). 

# Marketing at Pacific Marine Expo

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Charter business marketing and customer satisfaction was one of the topics discussed at the first-ever workshop series for charter boat operators on the West Coast, held in Seattle in mid-November as part of the conference program at Pacific Marine Expo.

PME is the alternate year substitute for Fish Expo in Seattle, the biggest commercial fishing exposition in the country. Many charter boat operators have attended Fish Expo in the past because much of the technology on display is pertinent to passenger and sport fishing boats, but previously no conference content had been directed to them. More than 100 people attended the conference, and many went to more than one session.

In addition to marketing, the conference had sessions titled “Making the Transition from Commercial Fishing to Chartering,” “What’s New in Charter Boat Design, Construction and Outfitting,” and “Coast Guard Update.” The conference was organized by Terry Johnson and cosponsored by the Alaska Sea Grant Marine Advisory Program.

The session on marketing featured three speakers, each with very different experience in the industry.

Andy Mezirow, owner of Crackerjack Charters in Seward, offered some tips for starting up and promoting a sport fishing day boat business. He told the 50 charter operators in the room that Alaska has some 1,500 charter fishing services, and that persuading potential clients to choose his business over all the others poses a challenge. “Just throwing a lot of money at ads,” he told his listeners, “doesn’t work.” He does some advertising, he says, but places ads in publications that have no other ads for sport fishing charters. He explained that he launched his

business by getting sponsorships from tackle companies, used the recognition from the sponsorships to get fishing writers out on his boat, and then leveraged the resulting articles into more sponsorships.

Mezirow underlined two marketing principles mentioned by other speakers. One is that the Internet is far and away the most cost-effective format for advertising, and it pays to put time and money into a good Web site, and into positioning or optimizing that Web site. The other is that the advent of digital cameras makes it convenient and economical to photograph clients out having fun and then share those photos with them via e-mail. Clients often circulate those photos to their friends and relatives by e-mail, which serves as very effective and virtually free advertising for the operator.

Another fan of the Internet and of digital photos is Joyce Gauthier, owner of the classic wooden charter yacht *Ursa Major*. She has organized several charter yacht owners and operators into a marketing “consortium” that works cooperatively to market their trips, even though some of the vessels compete with one another for the same market. She says the real competition is the cruise lines, and the consortium banded together to present “the cruise ship alternative” to a growing market of affluent people who want semi-private or exclusive multi-day trips.

Gauthier says pictures are “incredibly important” in marketing boat cruises. People want to picture themselves in the scenes they see, and that means the operator has to be diligent about getting lots of photos with their clients in them, having fun. She recommends handing them a CD of photos of themselves as they leave the boat.

She adds that the media—especially magazines and newspaper travel sections—are always looking for well-illustrated stories about trips on boats.

Fran Mathews, co-owner with her husband of Marine Discovery Tours in Newport, Oregon, has a different challenge. They do what they call “nature-based tourism” specializing in day trips on the nearshore waters and on Yaquina Bay. Although they operate in a major, road-accessible tourist town, they still rely heavily on the Internet. She says you need good boat photos, a good logo, and to do company “branding” to create a favorable public image of your operation.

Mathews, however, goes a couple steps further than simply advertising on the Web. She works with the National Tour Association (motor coach and tour bus operators), is available as a speaker on a variety of subjects (not all are directly related to her tours), is involved in public service and professional organizations, and provides extra touches such as sponsoring sport teams and providing customized T-shirts to school groups that go out on the boat. She puts a lot of emphasis on providing high quality interpretation and entertainment for the passengers on the boat. “Nature-based tourism is all about the people running the show,” she told attendees at the conference.

Mathews says the clients’ reaction to their trips is gauged by the responses to an evaluation form that is part of her reservation form.

Following the success of the first charter boat conference, the management of Fish Expo/PME has asked Marine Advisory to organize another conference for Fish Expo in Seattle in November 2005. ⚙️

# Shore Excursion

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Some Alaska operators who take their passengers ashore for hiking, wildlife viewing, sport fishing and other activities received a shock earlier this year when their insurance companies told them they are no longer writing “shore excursion” policies. In addition to it being good business to cover any activities that occur off the boat and during the course of a voyage, many operators are required by land management agencies (such as the U.S. Fish and Wildlife Service) to have insurance covering activities that occur on the lands that the agency manages. Listing the agency as co-insured may be required as a condition for issuing a commercial use permit.

The explanation, apparently, is that the small shore excursion market isn't profitable for the underwriters, despite the fact that claims have been very low. Rather than raise rates on the previously low-priced riders to marine policies, they simply stopped offering the coverage altogether.

Northern Marine Insurance, which covers hundreds of Alaska charter boats, informed clients (your editor included) at renewal time last spring that shore excursion coverage would be no longer available, and was unable to refer clients to a source. Starkweather & Shepley, the insurance agency that has a membership discount agreement with the National Marine Charter Association (NMCA) does not now and has not in the past had a shore excursion option for its clients.

An agent with Charter Lakes, the agency that works with the National Association of Charter Operators (NACO), reported in early December that the company still offers a shore excursion option. This coverage is offered only as a rider on a Charter Lakes boat policy.

At this point the only apparent option for Alaska operators who need

liability coverage for clients while off the boat, and who want to stay with their current agent and not switch to Charter Lakes, is a “guides and outfitters” policy. While not structured for boat operations, and considerably more expensive (minimum of over \$1,000) than a shore excursion rider, a guides and outfitters policy is available from at least a couple of

Alaska-based agencies, and meets the requirements of the land management agencies.

If you have information regarding the availability of shore excursion, or other insurance related information or problems, please contact Marine Advisory at (907) 235-5643 or [rftlj@uaf.edu](mailto:rftlj@uaf.edu).

## Halibut Update

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Probably you will receive this issue of *Charter Log* after the North Pacific Fishery Management Council wraps up its December meeting in Anchorage. Halibut is on the agenda, and according to charter boat operator Jim Preston, who is on the Advisory Panel, the council is taking final action on the halibut subsistence program. Mr. Preston says it looks like the final result will prohibit subsistence fishing for halibut aboard a charter boat, except by the vessel's owner or his family. All subsistence halibut fishing will be prohibited when clients are aboard.

Mr. Preston also reports that NMFS staff is still revising the halibut

charter IFQ program and it now goes to NOAA General Counsel for legal review. After the lawyers are through with it the plan will go to D.C. for review and publication as a proposed rule. Mr. Preston says that it is unlikely the program can be implemented before 2006. He adds that preliminary ADFG data for the guided sport halibut fishery indicates that the GHL was not reached in either area 2C or 3A, although 2C has come close.

Updates on these matters will be included in future *Charter Log* issues.

## Bells No Longer Needed

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If your boat is 39 feet or longer, but less than 65 feet, you no longer need to carry a bell, or use a bell signal, while in fog or reduced visibility. This is one of several changes to the U.S. Coast Guard's Navigation Rules (also known as Rules of the Road), according to an article in the AMSEA newsletter *Marine Safety Update*.

Last year a number of specific changes were made to the Rules of the Road. Other changes pertain to nondisplacement craft such as WIG (“wing in ground”) craft that

fly slightly above the surface of the water.

AMSEA reports that currently there are no plans to reprint the navigation rules book with the new Rules of the Road. However, printable inserts are available at [www.navcen.uscg.gov/mwv/navrules/download.htm](http://www.navcen.uscg.gov/mwv/navrules/download.htm). The same site allows you to download the entire Rules of the Road book by section, and includes corrections to typographical errors and other supplementary information.

# Subsistence Halibut

Halibut subsistence fishermen in Alaska took about one million pounds of flatties in 2003, according to a study conducted by ADFG. The million pounds is “net weight” or 75% of live weight, which approximately corresponds to the percentage of the whole fish that is landed by commercial fishermen. It amounts to 1.3% of the 82.5 million pounds taken by the combined subsistence, sport and commercial catches that year.

ADFG says it is nearly identical to the figure projected by the department based on community harvest studies.

The catch was landed by 4,935 individuals who reside in any of 117 rural communities or are members of one of 123 qualified Alaska Native tribes.

Of the subsistence total, 72.3% was taken by longline and 27.7% by rod-and-reel or handline.

Landings by region were Southeast—62%; Southcentral—27%; East Bering Sea Coast—5%; the remaining 6% was divided among Alaska Peninsula, Pribilofs, and Aleutians districts.

Subsistence halibut fishermen also landed an estimated 14,855 rockfish and 3,299 lingcod while fishing for halibut.

More information is available at the Subsistence Division Web site, [www.subsistence.adfg.state.ak.us](http://www.subsistence.adfg.state.ak.us).

## Tax Tips

It's that time of year again—the end of the tax year and the time to put together all the documents and calculate the figures for your Schedule C so that you or your accountant will have a nice neat package of numbers from which to calculate your annual tax burden. Here are a few tips to keep in mind.

- Even if chartering provides only part of your income, it's important to do careful bookkeeping and keep your charter business accounts separate from other expenses and sources of income. You may be able to use chartering expenses to offset other classes of income (see the story on bareboat charter expenses elsewhere in this issue), but it's important not to allow your charter income and expense receipts to become mixed up with personal expenses and other income when calculating profit and loss.
- Remember, all ordinary and reasonable expenses incurred in connection with your business can be deducted from your taxable income, including interest and fees on business-related loans and business credit cards, commissions and fees paid to agents, advertising, vehicle expenses (in most cases proportioned between business and nonbusiness uses), moorage and storage, home office expenses,

equipment (including clothing, optics, tackle and other items purchased for use in the business) and depreciation of vessel and any other durable goods used primarily in the business.

- You may be able to lower your tax burden if you employ family members in your business. Since children are probably in a lower tax bracket, the wages you pay them likely will be taxed at a lower rate than if you kept the money as income and then spent an equivalent amount on their needs. If your business is a parental partnership or sole proprietorship, you may also be able to avoid paying FICA and Medicare taxes on their wages.
- Be sure to pay all outstanding bills by December 31, do maintenance and repairs, and make any purchases to replenish equipment or supplies, to gain full tax advantage this year. The exception would be if you had a poor season this year, which puts you in a lower tax bracket, or if you definitely anticipate a big season next year that would put you in a higher bracket. In either of those cases you may want to defer expenses until next year.
- Remember that certain kinds of payments can be made after December 31 and still count against this year's taxable

income, including contributions to retirement plans and educational savings plans. If you work with your accountant now to determine your tax liability, you may find that you can still shelter some of your income by making deposits in qualified programs prior to April 15. Laws and strategies pertaining to these kinds of deductions are complex and you should work with a qualified accountant or advisor to be sure you get good advice and get the best result for your effort and money.

Here are some dates to remember:

Jan. 15—Individual estimated tax payment is due unless the 1040 form is used.

Feb. 1—W-2 and 1099 forms to be mailed to employees and independent contractors (who were paid more than \$600 during the year), respectively.

Feb. 1—Form 940 (Federal Unemployment Tax) and Form 941 (Employer's Quarterly Federal Tax Return) are to be filed.

March 1—File the government copy of the W-2 and 1099 forms.

March 15—Tax returns (or extensions) must be filed if your business is a corporation and your financial accounting is done on the calendar year.

# Sport Fishing Guide License

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State of Alaska has created a mandatory sport fishing guide license program. HB 452 was the legislation that created the license and established minimum standards for both freshwater and saltwater fishing guides and businesses. Applications for licenses, vessel registration and reporting forms should be available online by January 2005.

The program has three elements: a sport fishing business operator (owner) license, a sport fishing guide license, and a freshwater logbook and vessel registration. Vessels used exclusively for sport fish guiding and chartering no longer will be required to carry ADFG commercial fishing registration triangles.

Annual fees are as follows: sport fishing guide—\$50; sport fishing operator—\$100, and operator/guide combined—\$100. There is no fee for vessel registration and the logbook, but vessels must have a current AK number or Coast Guard documentation to be registered. Fees are intended to cover the cost of

collecting and processing the harvest data generated by the logbooks. Guides will be required to regularly report catch and general location of fishing. Existing ADFG employees will do the data processing and will be paid with funds provided by the license fees.

Saltwater operators will be relieved of the weekly reporting requirement, which has changed to a seasonal reporting requirement. Under the new program all activity must be reported by October 15, 2005. This provision applies to freshwater operators also. Persons who identify themselves as guides must either be directly employed by a business that has a sport fishing operator license, or must have a combined operator/guide license.

The department says the licensing program will be good for the industry because it will provide important information on sport fish harvests and guided fishing effort, and will improve the “professionalism” of the industry by imposing certain requirements on operators and guides.

For example, applicants for operator licenses will be required to provide copies of a current state business license from the Division of Occupational Licensing and proof of liability insurance coverage (with a minimum \$100,000 per incident, \$300,000 cumulative per season limit). Guide license applicants will have to show that they are citizens of the United States, Canada or Mexico, are certified in first aid, hold a current Alaska sport fishing license, and hold an appropriate Coast Guard passenger vessel operator license if they operate on waters classified by the Coast Guard as navigable.

Although Sport Fish Division director Kelly Hepler has issued a statement saying that the new licensing program will assure angling clients that they “will be accompanied by a trained professional,” the legislation does not require any specific guide training.

The legislation also provides for penalties of up to \$500 fine for noncompliance, including failure to file accurate and timely reports. ⚙️

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- Flat Out Facts about Halibut
- Charterboat Operator's Guide
- Buying Insurance for Your Charterboat
- Boatkeeper (tips on small boat maintenance)

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