

Regulatory And Legislative Update



Business of Boating Professional Development Conference

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TOPICS TO BE COVERED

- Dredging
- Chapter 91 licensing
- Federal Army Corps
- Federal Stormwater
- Hoisting/Crane Licenses
- Information Requests from localities, for taxation purposes – Clash with customer privacy concerns
- Insurance tips
- Legislation to expect
- Regulatory changes to expect: Adaptation to rising sea levels/FEMA changes

Update on Dredging

FIRST THINGS FIRST...

- Get internal company agreement on:
 - the essential reason for the dredging project;
 - the anticipated revenue potential from dredging or revenue loss from absence of dredging;
 - the budget availability and timeframe for the project;
 - Internal expectations of management responsibilities v. consultant responsibilities



Get a Realistic Budget Before Spending More Than a Few Thousand Dollars

- Many, if not most, dredging projects need off-shore disposal options.
- To qualify, it can cost \$100,000 or more to do bioassay testing proving suitability.
- You must consider, can the budget support that testing expense?



Previously Authorized?

- Evaluate ALL permits and approvals on record at the Registry of Deeds to see if ANYTHING dredging related has been recorded as public record.
 - Many agencies have difficulty maintaining good records going far back in time and many facilities have changed hands at least once since they were last dredged, if dredged at all.
 - One must understand that finding written permits and approvals can be challenging.
- Something to note: many prior approvals were much less precise than today's approvals, so some logical assumptions can be argued if dredging was approved in words but not shown precisely on plans under docks.

Previously Dredged?



- If the area or portions of the area were never dredged before, anticipate major challenges from Division of Marine Fisheries and environmental organizations and count on tremendously more difficult regulatory standards
 - (“maintenance” dredging v. “improvement” dredging)
 - If the dredging is proposed to be deeper or it falls outside of a previous dredge footprint it is presumed improvement dredging!
- The key is PREVIOUSLY AUTHORIZED dredging, not just operationally previously dredged.

Key Permits and Approvals

- Key permits to review for dredging projects
 - Chapter 91 License from the Dept. of Environmental Protection
 - 401 Water Quality Certificate from the Dept. of Environmental Protection
 - Order of Conditions from local Conservation Commission (Mass DEP if appealed)
 - United States Army Corps Approval
 - Federal Consistency Review through the Office of Coastal Zone Management
 - Likely Mass Environmental Policy Act review through the MEPA Office of the Executive Office of Energy and Environmental Affairs –
- GENERAL TIP: DO NOT CALL** without experienced advice first. Regulators say “call us, we’re here to help” yet they often do not know key points.

More Tips on Managing Dredging Projects

- Vet your consultants, ask for references, explore their references carefully, as you will spend a lot of money on them, well spent for the right people/person
- The ACOE encourages pre-application meetings for most dredging projects, which allows for the ACOE to guide the applicant. This helps to eliminate a lot of unnecessary back and forth, which drastically slows down the regulatory process.
- Respect your regulators! That they are delayed or inexperienced or impractical may not be their fault, or at least not something they can correct.
- Mass Division of Marine Fisheries focuses on impact to fisheries for sake of population and feeding, while National Marine Fisheries focuses on impact to overall ecology. As the applicant, focus on BOTH!

More Tips on Managing Dredging Projects

- Start your project early enough so that the project is not requesting a time of year restriction extension (usually in the Spring, some geographic areas in February)
- When obtaining water quality certificates from DEP, common missing items are dewatering plans (where necessary) and emergency plans in response to fish kills. Do not forget to submit these!
- Make note of wetland buffers. This includes your slope folks! In general dredging, including any side cuts, should be at least 25 feet from any marsh boundary.
- Know your MEPA thresholds: Dredging of 10,000 or more cy of material or disposal of 10,000 or more cy of dredged material, unless at a designated in-water disposal site, triggers a MEPA review.

More Tips on Managing Dredging Projects

- Docks and ZOR/Reconfiguration Zones along with dredging – YES if “plain vanilla” no, do separately if complex
- Define boundary lines early for Reconfiguration Zones and realize this includes vessels berthed.
- Watch expiration dates of permits and apply for extension even where not needed yet to be sure you receive it in time.
- BE CAREFUL about the duration of disposal approval. Some key test results expire and have to be redone after three years. Also, the disposal site can fill if not used!

Upcoming Legislative Efforts

- Proposed dredging legislation to study 1) sources of dredging funding, 2) permit streamlining, and 3) disposal option to maintain recreational boating access to Commonwealth waterways.
- Convene informal working group of stakeholders to get the studying and discussion started.
- We will have to earn the support of the Baker-Polito Administration

SAMPLE IMAGES

PROVIDED BY TIGHE BOND

Self-opposing clamshell bucket improves digging accuracy and efficiency compared to a standard single excavator bucket where the machine is pulling against the barge mooring spuds, causing barge movement and limiting excavation force. Hydraulic machine can apply down-force to push bucket into the bottom – good for harder seabed, here sand over bedrock

PROVIDED BY TIGHE BOND



Standard excavator on sectional barge filling dumpsters – readily available, excavators known to fall off barges if not well chained down, can deal with debris including chain, moorings, stumps, logs, boulders, etc.; can be difficult to dig harder bottoms in deeper water due to barge movements

PROVIDED BY TIGHE BOND



Mechanical dredging has an advantage in handling varying types and densities of sediments with minimal addition of water or sediment bulking, aiding dewatering (hydraulic dredging entrains water to create a pumpable slurry which can take much longer to dewater, producing lower density fills that need soil densification on filled lands)

PROVIDED BY TIGHE BOND



Gravity clamshell bucket on crane,
good for softer sediments as down-
force is bucket weight only, longer
reach and swing possible, more
difficult to monitor excavation depths

PROVIDED BY TIGHE BOND



Mechanically excavated sediment with minimal added water – faster dewatering



Contained clamshell dredged sediment
dewatering area after overnight
dewatering

PROVIDED BY TIGHE BOND



Same sediment being loaded for trucking with 1 to 2 day dewatering, EPA Paint Filter Test used as rapid on-site test by contractor to check for adequate dewatering for trucking with no seepage onto roads

PROVIDED BY TIGHE BOND



Truck dumping area for beneficial reuse stockpile – cow plop consistency

PROVIDED BY TIGHE BOND



Reuse stockpile area with sediment being stacked higher to save space (intended reuse as ball field topsoil) – sediment now well dewatered

PROVIDED BY TIGHE BOND



Broken rock being removed from berth for beneficial reuse on shore

PROVIDED BY TIGHE BOND



Q&A

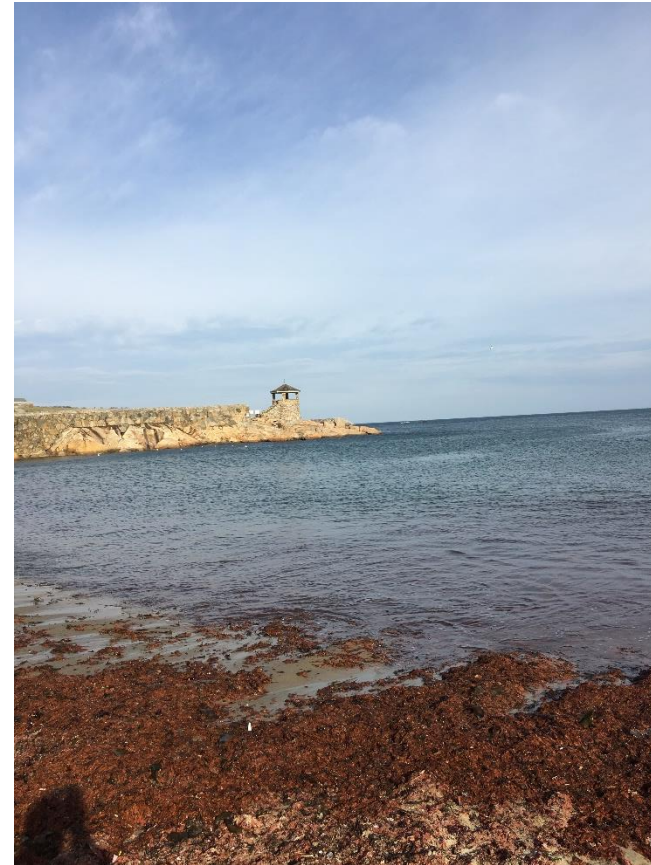
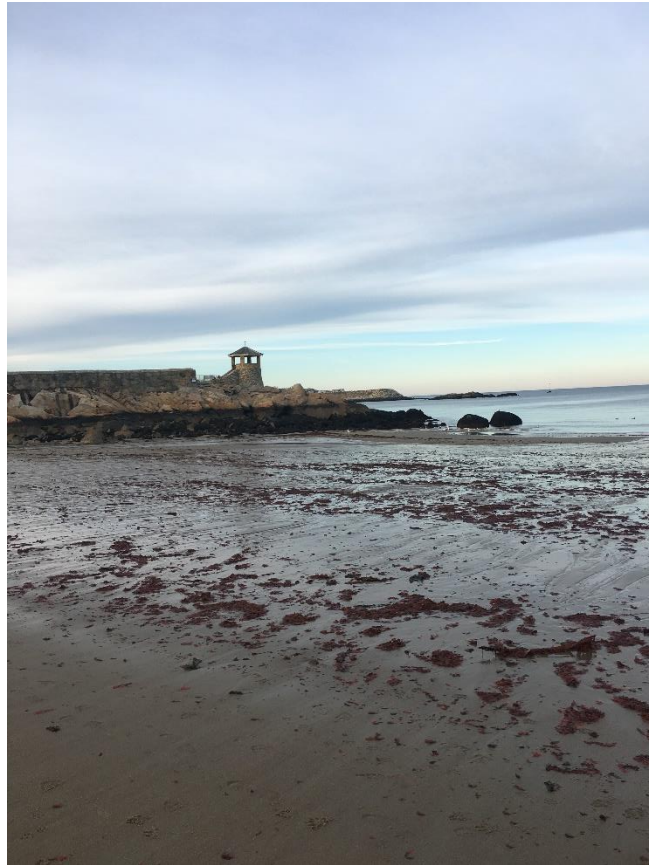
(Image and Creation of Rick McKenna)



Public Trust Rights and Chapter 91 Update

Fish, Fowl and Navigate – Historic High to Historic Low – Strolling

Modern Interpretation



Update on Chapter 91 Licensing

- Focus on public access to waterway, and connections from public ways, even if current issue is adding a few docks. OK to bar dock access. Not ok to block all access. Signage goes a long way in good faith. Use stanions and rope if impractical to have consistent built walkway.
- Staff is sparse yet still detail focused. Some regions have *no one* to review Chapter 91 applications
- Application still requires such extreme detail as to **preclude timely approvals** even when submitted with reasonable advance notice. EVALUATE AND PLAN ACCORDINGLY, UNDER ADVICE OF COUNSEL.

Chapter 91, continued

- There is an “**emergency license**” process available, however after approval one still has to obtain the usual license. No expense is saved, only time. “Emergency” means health and safety matters, not economic need.
- Any non-water-dependent component causes the whole license to be treated as non-water-dependent (more time, more public comment, more appeal options)
 - **Do everything possible to articulate proposed work as a minor modification to an existing license or better yet, ordinary maintenance**
- Do an **overlay before** actually contacting the MassDEP, to identify even the smallest unlicensed area or change in use.
- The **Harbormaster** has huge influence over any navigational issue, and will be asked by DEP first regarding any license application. The Harbormaster can approve bottom-moored facilities, no license required.

Update on Chapter 91 Licensing (cont.)

- Enforcement focus on even petty locational changes, but usually only if reported to DEP or if one files for a new or changed license. Recouping perceived economic gain is their floor of fine or penalty. Good faith is essential. Evidence of knowing non-compliance is deadly.
- Get a reconfiguration zone approved if you have to apply for anything anyway. Don't apply for anything without doing an overlay of existing structures and uses in relation to all other required approvals.
- Don't forget MEPA thresholds under 301 CMR 11.03(3)(b) and the Army Corps approval!
 - Must file an Environmental Notification Form before any state license or permit can issue if putting in more than 1,000 base sq. ft of structure or of in-water docks. See 301 CMR 11.03(3)(b). **STAY UNDER THRESHOLD** or file with MEPA.

Q&A

(oil by Kenneth Knowles, www.kenknowles.com)





US Army Corps of Engineers

U.S. Army Corps Massachusetts General Permits

Authorization granted through one of the following application processes (*none* are electronic) :

- **Self Verification Eligibility (SV)** – Submit a Self Verification Notification Form and existing plans prior to commencing work. *Caution: Signing is agreement to follow the published permit conditions and to meeting published pre-requisites. Knowingly being incorrect is perjury.*
- **Preconstruction Notification (PCN)** – Send application form, plans, project narrative, and more and notify state and tribal authorities. *Must wait for Army Corps approval before commencing work.* Assume the worst and try to allow four months for a reply. May need Massachusetts Office of Coastal Zone Management “Federal Consistency Review”. *Caution: the US Army Corps has discretion to require an Individual Permit if you apply under this category. Consider whether to apply for an Individual Permit anyway if in doubt.*
- **Individual Permit** – Full public comment, usually minimum six months start to finish, one year if at all controversial, can be many years if dredging and sophisticated new sampling for ocean disposal is needed. Definitely also need Massachusetts Office of Coastal Zone Management “Federal Consistency Review”.



US Army Corps of Engineers

- The new federal U.S. Army Corps Nationwide Permits included 23 new permits just for use in Massachusetts. These federal Massachusetts General Permits are effective from February 4, 2015 to February 4, 2020.
- Projects in jurisdiction and not permitted under the US Army Corps Massachusetts General Permits require a US Army Corps *Individual* Permit.
- Typical activities requiring authorization by the U.S. Army Corps include:
 - Construction of any structure in, over or under the navigable waters of the United States (e.g. pile supported and floating docks, seawalls, etc.). “Navigable” includes many rivers and tributaries.
 - New moorings or relocation or maintenance of moorings (controversial and confusing)
 - Dredging
 - Boat Ramps and Marine Railways
 - Repair, Replacement and Maintenance of Authorized Structures
 - Temporary Aids to Navigation (no kidding!). Enforcement is spotty.



US Army Corps of Engineers

- Proposed revisions to the 2015 MA General Permit were put out for comment but have not gone into effect at this time.
- One proposed change is to ease the process for conversion from traditional moorings to low impact mooring technology and/or helical anchors. The regulators generally are not as aware as they should be of how difficult it is to work with so-called environmental moorings in fields of moorings.

Key Notes on US Army Corps Massachusetts General Permits

- Seek expert advice early in your planning process and *before making contact with any regulator*.
- Locate your facility's prior authorizations from the Army Corps, even if you have to go back to prior owners. Consider using a go-between if contact with the Army Corps is necessary.
- You likely need authorization for anything in the water, including maintenance of docks, pilings and even moorings. Enforcement is spotty. Prior Army Corps authorization may allow subsequent maintenance without further approvals, and prior authorization could even be statutory.
- You may be expected to perform or have relied on a site-specific "Submerged Aquatic Vegetation Survey" to verify the status of any "Special Aquatic Sites" (e.g. vegetated shallows and mudflats). **Caution:** Consider how to reasonably accomplish this in practical terms, with shared costs or dual purpose for the personnel and equipment. It has worked fine in some circumstances to state familiarity with the subsurface ecosystem based on personal knowledge.

Key Notes on US Army Corps Massachusetts General Permits

- Budget time in excess of the published processing goals, which are approximately four months to obtain Preconstruction Notification (PCN) approval and 12 months for an Individual Permit.
- Time of Year Restrictions (TOY) for working in water vary from waterway to waterway – *they can be extremely restrictive, but can also be varied with waivers*. Check with Massachusetts Department of Marine Fisheries for your waterway, anonymously and through an intermediary, if you can't find the information online.
- Your project almost certainly requires additional state and local approvals:
 - Local Conservation Commission - Notice of Intent
 - Massachusetts Department of Environmental Protection, Chapter 91 License/Permit; likely Mass Office of Coastal Zone Management Fed Consistency Review

Q&A

(Oil by Kenneth Knowles, www.kenknowles.com)



Updated STATE Hoisting Regulations 520 CMR 6.00

- Reduction of Continuing Education Hourly Requirements
 - Limits hours of regulatory and industry standard training to only 2 hours and 2 hours of equipment-specific training for each restriction on the hoisting license, this will significantly reduce the amount of continuing education hours at the time of renewal.
- Changes to the Definition of Hoisting Machinery
 - “equipment that has the minimum capability of hoisting the load higher than 10 feet, and *either* the capability of lifting loads greater than 500 pounds ~~and~~ **OR*** the capacity of the bucket exceeds ¼ cubic yards”, to reduce the scope of equipment requiring operator licensure and eliminate unnecessary regulation of certain equipment. Making technical change currently, looking to clarify to add back in the need to license operation of compact hoisting machinery. ***The change to "or" is meant by the Dept. of Public Safety to continue to regulate "compact hoisting machinery."**
- Acceptance of the Intrastate Medical Waiver from the Massachusetts RMV
 - The Department will recognize the Intrastate Medical Waiver from the Massachusetts Registry of Motor Vehicles as an alternative to the certificate requirement. This will allow those individuals who were medically disqualified from attaining the DOT Medical Certificate to continue to operate hoisting machinery within the Commonwealth of Massachusetts by obtaining an appropriate approval from a licensed physician. NOT EASY TO OBTAIN.

Updated STATE Hoisting Regulations 520 CMR 6.00

- Amendments to M.G.L. c. 146, §§ 53 and 57:
- Address the applicability of in-service training programs to the following companies: public utilities, companies operating exclusively on public utility property or equipment, and companies operating exclusively on company property. The new statutory language in § 53 extends exemptions to the licensing requirements for hoisting machinery to the following:
 - *(g) Any other company that operates hoisting equipment specifically limited to industrial lift trucks, forklifts, overhead cranes and other hoisting equipment, specifically authorized by the department and used exclusively on company property shall be exempt from this section if the company has met the requirements of clauses (i) and (ii) of subsection (e) and at least 1 supervisory employee is on site at all times of operation and the supervisory employee holds a license issued by the department under this section and is designated as the responsible person in charge of hoisting equipment during that period of operation.*
- For more information see <http://www.mass.gov/eopss/consumer-prot-and-bus-lic/license-type/hoisting/notice-of-amended-regulation-520-cmr-6-00.html#>

OSHA Standards for Crane Operators

- Managers or owners of marinas and boatyards should analyze the likely use of cranes or other equipment and decide if any employees will need the new November, 2017 OSHA nationwide federal construction industry crane certification, based on anticipated construction activity. **MOST WILL NOT.**
- The upcoming new federal requirement for the new national federal crane license is part of OSHA's *Construction Standard*, which **typically does not apply to marinas and boatyards..**
- If only usual marina and boatyard operations are to occur, such as moving boats and docks or loading materials or engines onto boats, the “general industry” standards apply, requiring on-site training and testing for cranes (not travel lifts) and a “designated operator” with appropriate skills for the job, site and equipment. **On-site training and effective operator designation, with good record keeping and periodic safety checks, is the key.**
- **Bear in mind that while the OSHA government won't usually require a crane license for usual marina and boatyard activity, some course providers and attorneys recommend the license as “extra liability protection” in the event of an accident.**

Q&A

(Mosaic by Pam Stratton, pamstrattonmosaics.com)





The United States Environmental Protection Agency's Multi-Sector General Permit (“MSGP”) for Stormwater Discharges Associated with Industrial Activities – YES THIS MEANS YOU

- Coverage is under the 2015 MSGP now, so double check that you are covered under the **current** permit and not internally referring to an expired permit.
- The essential substance of the permit is to have a site-specific Stormwater Pollution Prevention Plan. If you only have the permit authorization, but no actual on-site plan, you are **not** in compliance.

MSGP Coverage Acknowledgement Email

From: NeT@epa.gov [mailto:NeT@epa.gov]

Sent: Thursday, October 01, 2015 3:45 PM

To:

Cc: Erik Rexford <erexford@buchananassociates.com>; lee.won@epa.gov; warner.suzanne@epa.gov; lescure.nasrin@epa.gov; berry.lauraj@epa.gov; emily@avantincorporation.com; farris.erika@epa.gov; Gray.davidj@epa.gov; Christiane@avantincorporation.com; bius.catherine@epa.gov

Subject: EPA Multi-Sector General Permit (MSGP) Authorization is Active –

NPDES ID: MAR05 , NeT Submission ID: MSGP-25

Your Notice of Intent (NOI) requesting coverage for , LLC, , Street Boston MA under EPA's Multi-Sector General Permit (MSGP) has been accepted and authorization to discharge under the MSGP became effective at the conclusion of your 30-day waiting period, on 2015-10-01.

For tracking purposes, the following NPDES ID has been assigned to your NOI: MAR053 . Attached to this email, you will find a copy of your completed NOI form. To access your NOI in NeT, please visit: https://cdx.epa.gov/epa_home.asp.

As you know, the MSGP requires you to have developed a Stormwater Pollution Prevention Plan (SWPPP) prior to submitting your NOI. The MSGP also includes specific requirements for implementing control measures (e.g., minimize exposure, good housekeeping, maintenance, spill prevention and response), conducting self-inspections and visual assessments of your discharges, taking corrective actions, and conducting staff training. You must comply with any specific requirements applicable to your industrial sector(s) in Part 8 and any state/tribal-specific requirements in Part 9 (see <http://water.epa.gov/polwaste/npdes/stormwater/EPA-Multi-Sector-General-Permit-MSGP.cfm>). You are also required to submit an Annual Report in accordance with Part 7.5 of the MSGP that will contain the results from your past year's routine facility inspections, quarterly visual assessments, and corrective actions. Annual Reports must be submitted to EPA through NeT.

The MSGP includes five types of required analytical monitoring, one or more of which may apply to your discharge:

- Quarterly benchmark monitoring (see Part 6.2.1 and Part 8);
 - Annual effluent limitations guidelines monitoring (see Part 6.2.2 and Part 8);
 - State- or tribal-specific monitoring (see Part 6.2.3 and Part 9);
 - Impaired waters monitoring (see Part 6.2.4); and
 - Other monitoring as required by EPA (see Part 6.2.5).
- Monitoring requirements in the MSGP (i.e., parameters required to be monitored and sample frequency) will be prepopulated on your electronic Discharge Monitoring Report (DMR) in EPA's NetDMR system, which is accessed at <http://www.epa.gov/netdmr/>. Where you have determined that no monitoring requirements apply to your discharge, there is no need to access the NetDMR system. In order to obtain access to this system, you must complete the electronic signature process. Please refer to the following guidance for information about submitting monitoring reports through NetDMR:

<http://water.epa.gov/polwaste/npdes/stormwater/Stormwater-eNOI-System-for-EPAs-MultiSector-General-Permit.cfm>.

- Please note that this email does not represent a determination by EPA regarding the validity of the information you provided in your NOI. Your eligibility for coverage under this permit is based on the validity of the certification you provided. Your electronic signature on the NOI form certifies that you have read, understood, and are implementing all of the applicable requirements. An important aspect of this certification requires that you have correctly determined whether you are eligible for coverage under this permit.

Requirements for Your Stormwater Management Plan

- A description of the potential pollution sources
- A schematic plan of your facility that locates activities
- Pollution sources, storage areas, and site drainage (both surface and subsurface)
- An inventory of materials at your facility that are exposed to rain water
- A list of spills that have occurred at your facility
- Any sampling data that might be available on your discharges or waters around your marina
- Description of existing storm water best management practices used for the following activities: pressure washing, blasting and painting, materials storage, engine maintenance, material handling, yard maintenance and cleanup
- Operations and maintenance program to ensure BMPs and other systems are operating properly and are well maintained

Other Requirements for Your Stormwater Management Plan (Cont.)

- Spill prevention and response procedures
- Inspections to ensure implementation of the SWPPP
- Quarterly water sampling
- Employee training
- Record keeping
- Inventory and discussion of non-stormwater discharges including pressure wash water, bilge water, and sanitary waste discharges.
- Sediment and erosion control
- Statement of Consistency with other plans



The United States Environmental Protection Agency's ("EPA") Multi-Sector General Permit ("MSGP") for Stormwater Discharges Associated with Industrial Activities (cont)

- If any of your “activities” are potentially exposed to stormwater you are likely required to seek coverage under the MSGP. (boat fueling, repairs, painting, etc.)
- If none of your activities are exposed to stormwater a “No Exposure Certification” is available, rather than filing a Notice of Intent.
- No Exposure Certification is valid for five years from the date of submittal, regardless of what’s happening with the MSGP.
- No Exposure Certification is filed electronically with the EPA’s Central Data Exchange (“CDX”)



The United States Environmental Protection Agency's ("EPA") Multi-Sector General Permit ("MSGP") for Stormwater Discharges Associated with Industrial Activities

- 2015 MSGP requires quarterly monitoring reports as well as an annual report due January 30, 2017, which includes testing for fecal coliform.
 - Fecal coliform must be reported within 8 hours of testing and must be in a sanitary container. This is different from the usual quarterly tests.
 - You must monitor quarterly at least once in each of the following 3-month intervals:
 - January 1 – March 31;
 - April 1 – June 30;
 - July 1 – September 30;
 - October 1 – December 31.

Key Notes on US EPA Stormwater MSGP (cont)

- Your quarterly sample results are submitted to the EPA electronically using EPA's "NetDMR" reporting system, unless a waiver is granted. **TIP: NOT APPLE COMPATIBLE!!!!**
- **Massachusetts additionally requires monitoring for copper in stormwater samples.**
- The monitoring thresholds are "aspirational", not strict mandates, and you must use Best Management Practices to try to achieve the thresholds. Copper, for example, is below drinking water standards. **CAUTION:** if you are under a Consent Decree, your thresholds are probably strict mandates, with per-exceedance costs.

Sample Best Management Practices Published by Massachusetts Office of Coastal Zone Management – Some Common Sense; Some “Aspirational”

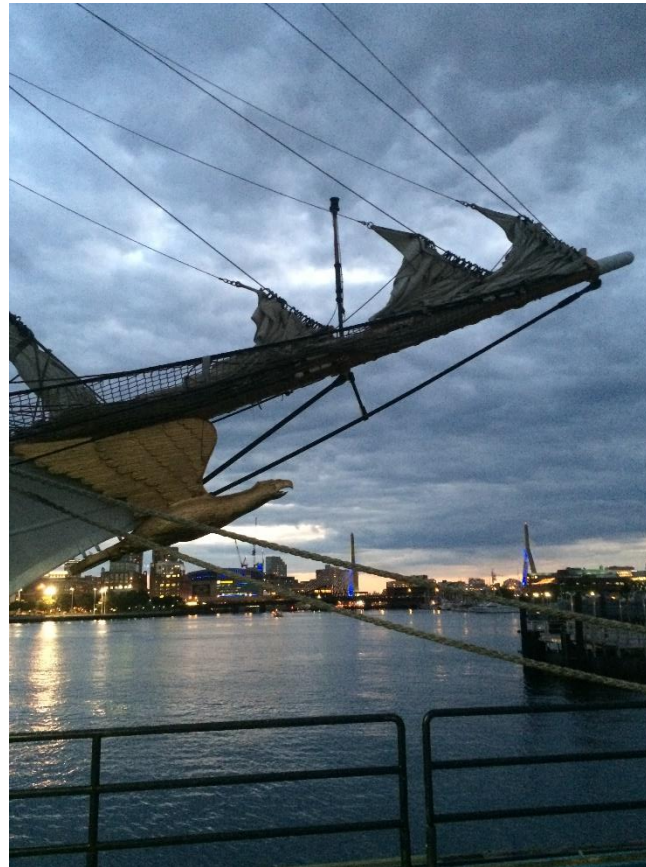
- Inspect catch basins twice a year and clean out
- If sump is half full, remove sediment
- Use regular dust pan and broom around catch basin
- Stencil “Don’t Dump” around catch basin [this is an old method – permanent medallions work better]
- Prohibit hosing down impervious surfaces
- Plant vegetated strips between developed land and the water. Grass, bayberry plants, or evergreens are ideal.
- Reduce paved areas wherever possible and plant grass

ANNUAL REPORTING

See Appendix I to the 2015 MSGP

- Summary of past year's routine facility inspection documentation (see Part 3.1.2 of the permit).
- Summary of past year's quarterly visual assessment documentation (see Part 3.2.2 of the permit).
- For any four-sample (minimum) average benchmark monitoring exceedance, if no further pollutant reductions are technologically available and economically practicable and achievable in light of best industry practice, provide your rationale for why (see Part 6.2.1.2 of the permit).
- Summary of past year's corrective action documentation (See Part 4.4 of the permit). (Note: If corrective action is not yet completed at the time of submission of this annual report, you must describe the status of any outstanding corrective action(s).) Also describe any incidents of noncompliance in the past year or currently ongoing, or if none, provide a statement that you are in compliance with the permit.
- There is a blanket waiver from EPA Region I from Suzanne Warner for marinas and boatyards to file on paper, not electronically, use this form: https://www.epa.gov/sites/production/files/2015-10/documents/msgp2015_appendixi.pdf

Q&A



Proposed Legislation for 2017-2019 Session So Far

- **SUPPORT:** Proposed dredging legislation to study 1) sources of dredging funding, 2) permit streamlining, and 3) disposal option to maintain recreational boating access to Commonwealth waterways.
- **CAUTION:** Refiling of mandatory boater safety bill, needs monitoring for bureaucracy
- **OPPOSE:** Refiling of local excise tax bill adding new tax for visitors
- **OPPOSE:** Refiling new requirement to register federally documented vessels in Mass
- **CAUTION:** Refiling withholding registration if no evidence of excise tax payment
- **SUPPORT:** Exemption from sales tax for boats built or rebuilt in Massachusetts
- **SUPPORT:** Refiling of local control of boat excise revenue

Insurance Tips

- READ policy, talk with broker
- Pay for criminal acts coverage
- Pay for defense costs coverage over and above policy limit
- Pay for environmental damage allegation coverage, if remotely affordable
- Do not allow exclusion for acts of third parties on your property, even unauthorized acts
- Do get named in all customer insurance, and require provision of evidence customers are insured
- Ask for any and all possible discounts, from security measures to automated payments. If you don't ask, you won't receive.

Information Requests from localities or state, for taxation purposes – Clash with customer privacy concerns

- Some municipalities and state agencies have sought customer information protected by the Consumer Personal Information Protection Act (M.G.L. Chapter 93H, 201 CMR 17.00)
- It is dicey to provide info willingly, because customers can sue you for sharing confidential information, especially if they are harmed by your actions.
- However, denying an authority what it wants (usually to ease collection of excise taxes or local boating fees), is also dicey.
- Consider replying you would appreciate them consulting Town/State Counsel and putting it on letterhead you are required to provide the information requested, despite the Consumer Personal Information Protection Act.

Q&A

