



MASSACHUSETTS MARINE TRADES ASSOCIATION

From the Desk of Jamy Buchanan Madeja, Esq, MMTA Gov't Relations & Legal Counsel . . .

Once again, Beacon Hill overfloweth with labor. Sort of. It may not be the "bail and barge" type of labor going on at your facilities. It is definitely back to work on the whole Hill, however, and hearings on more bills, more regulatory activity and it is easier to reach people for actual answers.

MMTA over the summer high season for boating has been working Beacon Hill all the while, testifying on some bills, commenting informally on others, and addressing regulatory concerns. All written testimony is available at www.boatma.com, along with our legislative tracking list.

FEDERAL STORMWATER MULTI SECTOR GENERAL PERMIT APPLICATION

First, yes **you likely need to have done this already, by September 2, 2015**. An important caution for all applicants and particularly those **from Plymouth to the Cape and Islands: it has come to our attention that the National Marine Fisheries Service is reviewing each and every eNOI to the U.S.EPA for at least these areas and unless the applicant has properly followed the arcane details in the Appendix** to the instructions regarding how the applicant checked for Endangered Species and habitat, NMFS is causing the U.S. EPA to **deny** the eNOI and require an additional information set. Individual applicants should reread the Appendix and also consider calling Jamy Madeja or other consulting support. In general, the U.S. EPA is saying they are legally bound to follow NMFS's recommendation, and will consider supporting rejected applicants if a third party such as Conservation Law Foundation were to take advantage of unclear instructions and file suit while a denied applicant is filing a corrective application.

LEGISLATIVE:

- A "**Climate Change Planning**" bill passed the Senate 40-0 (!) after several important amendments introduced by Senator Bruce Tarr were included. The bill generally **requires**

all state agencies to participate in a statewide climate adaptation plan with which, once approved, all projects public and private must comply or they shall not receive any state permits or approvals. Or money. Of particular importance in the Senator Tarr amendments was a "**grandfathering**" clause so that existing facilities could keep on doing business. Of particular remaining concern is that not even usual course of business activities, such as expansion of docks or a change in use of a building, could be approved without compliance with this as-yet undefined Climate Adaptation Plan. MMTA is also concerned that new structures would be prohibited in certain areas which should be ideal for "structures" such as pilings and docks.

Although the House is tepid on this topic of climate change planning, the topic is politically charged so MMTA is providing written commentary seeking improvements to this bill in case it is taken up seriously. It is also useful to note that the Senate amendments included a major one inserting changes to renewable energy rates, causing the utilities to join the opposition to the bill.

- **Repealing Boat Sales Tax:** While MMTA was well received in our testimony before the Joint Committee on Revenue, it seems clear no repeal is likely absent further documentation on why repeal of sales tax on boats results in more Commonwealth revenue (via jobs, among other things). We have successfully reduced some of the misimpression that all boaters are wealthy yachtsmen, that burr remains attached to some socks. Thanks to Senators Hedlund and Tarr, Representatives James Cantwell and Bruce Ayers, for their leadership role on this topic, as well as Sen. Richard Ross, Donald Humason, Viriato deMacedo, Ryan Fattman and David DeCoste.
- **Sales Tax Holiday:** Me, too, please. MMTA always testifies seeking inclusion of boats if there is to be a sales tax holiday, even for up to \$2,500. Lately, there is increased resistance to any sales tax holiday at all, although it squeaked by this year.
- **Boat Excise Tax:** We continue to push back on proposed changes to the method of valuation of boats for excise tax, poorly drafted administration changes and of great importance any effort to decrease the amount of time a boat can be in Massachusetts without owing boat excise tax. So far, we are heard, respected and optimistic as to success.

REGULATORY:

Remember how the Baker-Polito Administration is looking to sunset all regulations within one year absent specific findings? Maybe not so much? Well, MMTA is providing the Administration written comments on which regulations are duplicative of federal requirements or are otherwise wasteful without cost-benefit results. Give us your examples, please. What we have so far is:

- Hold overlapping single public hearings and one application for one single project instead of multiple sequential ones, especially on waterfront projects - Water Quality Certificate, wetlands, Chapter 91 as well as Army Corps to the extent possible. Try consolidated site visits and hearing, even if there is need for a statutory change to do so. Also, stop putting the review of the Office of Coastal Zone Management last, as a final process hoop rarely

worthy of jumping through after all the rest of the project proceedings have done.

- Hoisting licenses are duplicative to the federal requirements. Stop.
- The state plumbing code requires a shower and floor drains for a concrete floor boat building structure. That's just crazy talk.
- The annual inspection requirements for tanks and vapor recovery are excessive. Make them every three years.

That's most of the news fit to print! Best wishes for a safe and successful continued boating season through storage and winterizing.

Jamy Buchanan Madeja, Esq, MMTA Gov't Relations & Legal Counsel

617-227-8410

jmadeja@buchananassociates.com

