

November 4th, 2015

**To: Executive Office for Administration and Finance
Commonwealth of Massachusetts**

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**Re: "LISTENING SESSIONS"
Governor Baker's Executive Order #562
Executive Office for Administration and Finance
Regulatory Reform**

Dear Sir or Ms.,

Please accept the attached document as a suggested improvement to:

320 CMR 2.04 Public Access Facilities

This suggested improvement simply provides for the elimination of discrimination against the sport of snowmobiling for reasons of safety and improved access.

Oddly, this "public access" regulation does not allow for the loading/unloading and parking for the sport of snowmobiling - and this is only what I am talking about - just the ability to park/unload/load our sleds for the access to other adjacent parcels with permissible trails during Dec. 15- March 15. All suggested improvements are shown in "bold red".

This is a very basic improvement that does not interfere with the sport of boating at all and improves the accessibility of the trails in Massachusetts.

If I can be of any further help with this project please feel free to contact me at any time. I would be more than willing to meet with you to discuss this project.

Thanks,

Lawrence Tucker

Proposed Improvements to:

320 CMR DEPARTMENT OF FISH AND GAME

320 CMR 2.00: PUBLIC ACCESS FACILITIES

Section

2.01: Definitions

2.02: Management Measures

2.03: Special and General Permits

2.04: Prohibitions

2.05: Penalties

2.01: Definitions

Unless the context otherwise requires, the following words shall have the following meanings and the following rules of construction shall apply:

Amphibious Vehicle means any motored vehicle that is designed to operate both on land and in the water including but not limited to those vehicles commonly referred to as DUKWs, LARCs, Stalwarts, hybrids and United States Coast Guard Certified Amphibians.

Director of Fishing and Boating Access means the person appointed by the Commissioner of the Department of Fish and Game to act as the administrative head of the Department of Fish and Game's public access program, also known as the Office of Fishing and Boating Access.

Intended Use of a Public Access Facility means the launching and retrieval of any trailered or cartop watercraft and parking of the vehicle used to launch and retrieve watercraft in a properly marked parking area.

Intended Use of a Shore fishing Area means recreational fishing. Intended Use of a Sport fishing Pier means recreational fishing.

Public Access Facility means any properly posted land and/or water resource within Massachusetts that is subject to the authority of M.G.L. c. 21A, § 11B, and 320 CMR 2.00, including, but not limited to, boat launching ramps, parking areas, sport fishing piers and shore fishing areas, as designated by the Board or as utilized by agreements with other agencies.

Watercraft means a vessel of any kind, except seaplanes and amphibious vehicles, which is used or capable of being used as a means of transportation.

2.02: Management Measures

(1) It is unlawful to operate any amphibious vehicle, airplane or seaplane in a public access facility.

(2) Notwithstanding any provision of 320 CMR 2.00, the Director may establish:

- (a) management measures governing the use of a public access facility including, but not limited to, the number of users, the time of use, the manner of use and the type of use; (b) management measures governing any watercraft using a public access facility including, but not limited to, engine horsepower, watercraft specifications, and the size and type of trailers used to launch watercraft; and
- (c) management measures restricting, suspending or prohibiting the use of a public access facility

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3.02:continued

(3) Prior to the establishment of any management measure, except those established pursuant to 320 CMR 2.04(19), the Director shall provide the following notice and afford interested persons an opportunity to comment as follows:

- (a) publish notice of the management measures in a newspaper of general circulation within the jurisdiction of the public access facility;
- (b) mail a copy of the management measure to those associations, organizations or persons most affected by the measures, or who have requested to be notified of such measures; (c) file a copy of the notice with the State Secretary; and
- (d) prominently post the management measures at the entrance to the public access facility and at such other conspicuous locations within the facility as the Director deems necessary and appropriate.

(4) If the Director finds that the immediate establishment of management measures is necessary for the public health, safety or general welfare, and that observance of the procedures for notice and comment provided in 320 CMR 2.02(3) would be contrary to the public interest, the Director may dispense with such procedures and establish the management measures on an emergency basis. The Director's finding and a brief statement of the reasons for his finding shall be incorporated in the emergency, management measures and filed with the Secretary of the Commonwealth. The Director shall comply with the procedures for notice and comment provided in 320 CMR 2.02(3) if the management measures are to be effective for a period longer than 45 days.

2.03: Special and General Permits

- (1) The Director may issue special permits authorizing special activities, events, fishing derbies or contests or other public gatherings at public access facilities.
- (2) Except as otherwise provided in 320 CMR 2.02(1), the Director may issue general permits for a class of specified uses or for specific categories of uses.
- (3) Applications for a special permit or general permit may be made to the Director.
- (4) The Director may establish conditions and restrictions to the special or general permit that, in his opinion, are necessary and appropriate for the public health, welfare and safety, or are required by the type of public access facility sought to be used.

2.04: Prohibitions

Unless otherwise authorized by special or general permit issued pursuant to 320 CMR 2.03, it is unlawful for any person to conduct the following uses or activities within a public access facility:

- (1) camp, swim, sleep overnight, picnic, loiter, gamble or drink alcoholic beverages;
- (2) litter, vandalize property, have a fire, post a sign or notice or have unleashed pets;
- (3) **bicycles, motorcycles, snowmobiles, all terrain or other vehicles within a public access area except as required for the intended use of the public access facility; and except for trailer loading/unloading of snowmobiles for sole purpose of access to adjacent allowed properties.**
- (4) use a public access facility for any purpose other than its intended use;

- (5) use any parking area for a purpose other than the parking of vehicles used to launch and retrieve watercraft in conjunction with the intended use of the public access facility;
- (6) park a motor vehicle and/or trailer in a manner inconsistent with the striping pattern, signage or other means used to delineate the proper places to park;

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2.04:continued

- (7) exceed any posted speed limit, or violate any traffic pattern or traffic control measure;
- (8) conduct any business, commercial or trade activity that is inconsistent with the intended use of the facility;
- (9) sell or otherwise deal in wares of any sort or advertise any business, commercial activity or trade;
- (10) conduct any rental transactions, or park or engage in any activity related to rental transactions;
- (11) hold any public or private meeting, or conduct or participate in any tournament, contest or organized sporting, fishing or boating event;
- (12) wash motor vehicles, boats or any other personal property or equipment, or flush motors or other equipment;
- (13) fish within a 50 foot radius of any boat launching ramp or associated pier or float system;
- (14) leave any motor vehicle or boat trailer within a public access facility for more than 18 hours;
- (15) store any watercraft, trailers, equipment or other personal items, beach, dock or tie up any watercraft for more than 30 minutes, or use docks, piers or floats by watercraft not launching or retrieving;
- (16) operate watercraft at other than headway speed or water-ski within 300 feet of any public access facility;
- (17) operate personal watercraft from any public access facility except for the initial launch and retrieval;
- (18) close, gate or obstruct the entrance to any public access facility or take any action or conduct any activity that prevents or impedes access to, or the intended use of a public access facility;
- (19) load or unload powered watercraft onto or off of boat trailers by means of propulsion systems in violation of posted management measures that prohibit such activities at specified public access facilities; or
- (20) falsify any information on an application for a special or general permit.

2.05:Penalties

Violation of any provision of 320 CMR 2.00, any posted management measure or the conditions or restrictions of any special or general permit may be punished by any of the following:

- (1) a fine of not more than \$100;
- (2) the revocation or suspension of any special permit or use under a general permit issued pursuant to 320 CMR 2.04;
- (3) a prohibition on the future application for or issuance of a special or general permit; and