

**NJDEP Hearing on Public Access Rule Proposal
MTA/NJ Comments on Proposed Amendments
DEP Docket Number: 05-11-03
May 23, 2011
Seaside Heights, NJ**

My name is Melissa Danko and I am the Executive Director of the Marine Trades Association of New Jersey. I represent over 300 marine related businesses that are dedicated to advancing, promoting and protecting the recreational marine industry in NJ. I am here today to provide testimony in support of the Public Access rule that was recently proposed by the Department of Environmental Protection. The new rule proposal includes a number of significant changes impacting recreational marinas, many of which are positive and represent a return to common sense with a reasonable and balanced approach to providing public access to our waterways.

The Marine Trades Association of New Jersey has spent the last four and a half years aggressively working on this issue and fighting for the rights of marinas pointing out that, marinas, by their very nature, already provide access to the public. Marinas are unique. They provide slips, public boat-ramps, fuel, fishing supplies, boat maintenance and service, restaurants and more. Access to the water and access to the services that marinas offer are provided to the general public. The very nature of their business operations ensures that the public has use of public trust waters. It is essential to their livelihood.

When the previous regulations were promulgated in 2007, they placed serious mandates on marina owners by forcing them to provide unlimited public access on their properties without taking into consideration the access

and services they already provide. Any marina seeking a permit to improve or expand their facility was required to provide permanent perpendicular and linear access including a walkway across the entire waterfront of the property despite the configuration or operation of the marina; this access would need to be provided to anyone 24 hours a day, 7 days a week, even after the business is closed and in the off-season; parking would need to be provided even if additional land had to be purchased and deed restrict the walkway in perpetuity by way of a conservation easement. The rules increased security concerns, reduced revenues and increased costs beyond the ability of most marinas to support. Marinas found themselves boxed in, as they could not expand or improve without revising their entire facility for increased and unlimited public access and many projects, including a number of environmentally beneficial ones, never moved forward.

The legislature agreed that a one size fits all approach for public access is impossible and that marinas are an essential part of the State's waterfront community and should be encouraged. As a result, The Public Access and Marina Safety Act was signed into law in September 2008. The legislation established a two year moratorium on the implementation of the rules and regulations adopted by the Department governing public access at marinas and stated that the moratorium was critical to ensure that all affected interests were taken into account, thus increasing the likelihood of a more reasonable and equitable policy.

The DEP has made a real effort to take into consideration the nature of the family run marina businesses, the access already provided, and the need for a reasonable, realistic and affordable permitting process which does not

unduly burden marina owners and operators when essential maintenance and upgrades become necessary.

Public access is a complex issue and we realize that no rule is ever going to be perfect, and while there are a few items in this proposal that we will be seeking some additional clarification on and providing written comments, we greatly appreciate the fact that many of our concerns were heard. We also recognize that these changes are the culmination of significant efforts by the Department to allow for real opportunities to create meaningful public access by not only addressing the different geographies of the state and the differing needs of the people but by bringing common sense, reason and a respect for property rights to the rules.

The changes to the rules for marinas must be adopted to ensure the future health and growth of the recreational boating industry, the businesses that support it and the citizens that depend on it. If something is not done now to protect New Jersey's marinas, they will either never upgrade or will be we forced to sell to private developers when they can no longer operate. New Jersey needs more marinas and more opportunities to access and enjoy our waterways. Now more than ever, we need to focus on and protect the things in life that make us happy and the activities and the time we spend with our families and friends.

The MTA/NJ believes that this new rule is a step in the right direction and we strongly support its adoption. I thank you for your time and look forward to working with you in the future.

