



June 22, 2010

LEGISLATURE OVERRIDES GOVERNOR'S VETO OF SENATE BILL 124

Structure Built in Tidal Waters Prior to 1995 to be COP Eligible

On May 7, we issued an E-Alert notifying you that the legislature had passed Senate Bill 124, which changed the date of eligibility from 1980 to 1995 for authorization under a Certificate of Permission ("COP") for structures built in tidal waters. Unfortunately, due to a Senate amendment concerning solid waste facility permitting which was not part of the original bill negotiated with Senator Maynard, the Governor vetoed the bill on June 8, 2010.

However, on June 21, 2010, the General Assembly overrode the Governor's veto, and Senate Bill 124 (Public Act 10-106) became law. The result is that effective October 1, 2010, structures in tidal waters built before 1995 will be eligible for a COP, if the structure complies with "all applicable standards and criteria." Under the Uniform Administrative Procedures Act, the only applicable standards and criteria that are enforceable are those provided in statutes and in regulations duly adopted by the Commissioner.

In other coastal regulatory news, on June 17, DEP presented a PowerPoint program concerning Office of Long Island Sound Program permitting responsibilities and trends as part of an outreach to the regulated community. The meeting is one of several the Department is holding to seek regulated community input on the agency's various permit programs as a result of legislation (P.A. 10-158) passed this season to expedite environmental permitting. The goals established by the legislation are to have the Department make a determination of sufficiency on all permit applications within 60 days of receipt of the application and to issue a tentative determination to grant or deny a permit within 180 days after the sufficiency determination.

The Department has requested comments from the regulated community on the OLISP permitting processes and how they might be improved. Comments should be sent to Brian Thompson, Director of Office of Long Island Sound Programs. The PowerPoint presentation will be posted on DEP's website. A second opportunity to attend the OLISP presentation will occur on July 8, 2010 at 7:00 p.m. in Building A at the DEP Marine Headquarters located at 333 Ferry Road in Old Lyme.

If you have any questions on these issues, please contact Gregory A. Sharp (gsharp@murthalaw.com) at 860-240-6046 or Andrew W. Lord (alord@murthalaw.com) at 860-240-6180.



If you have any questions about the issues addressed here, or any other matters involving Environmental law issues, please feel free to contact:

Gregory A. Sharp
860.240.6046
gsharp@murthalaw.com

Andrew W. Lord
860.240.6180
alord@murthalaw.com

BOSTON

HARTFORD

MADISON

NEW HAVEN

STAMFORD

WOBURN