



THE AMERICAN WATERWAYS OPERATORS  
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## **AWO Hails Recommendation for Summary Judgment Against Massachusetts Oil Spill Law as Victory for Interstate Commerce**

WASHINGTON, D.C. – The American Waterways Operators (AWO), the national trade association for the American tugboat, towboat and barge industry, today hailed a decision by the U.S. District Court, Massachusetts District, to recommend summary judgment against a 2004 Massachusetts oil spill statute. The decision was issued on July 29 by U.S. Magistrate Judge Leo Sorokin. A lawsuit brought by the U.S. Department of Justice challenged the constitutionality of the law, which was enacted in response to a 2003 accidental tank barge oil spill in Buzzards Bay. The Department of Justice lawsuit asserted that the Massachusetts oil spill law tried to make law in areas that are reserved exclusively to the Federal Government, specifically the U.S. Coast Guard.

In 2006, the District Court affirmed the position of the U.S. Government that Massachusetts overstepped its bounds in passing the 2004 law regulating the crewing and operation of towing vessels and tank barges in Buzzards Bay. These and other navigation safety issues are governed by U.S. Coast Guard regulations, including a Regulated Navigation Area (RNA) establishing special safety rules for vessels operating in this area. In yesterday's ruling, the court reaffirmed that finding. It also rejected procedural counterarguments advanced by Massachusetts alleging that the Coast Guard had not followed proper procedure in establishing the RNA. The court rejected the Commonwealth's claims that the Coast Guard failed to abide by the National Environmental Policy Act and did not provide adequate opportunity for public comment on the Coast Guard's assertion of its authority to preempt state regulation.

AWO President & CEO Thomas Allegretti said, "This decision is a welcome result for the federal government and our industry, a victory for interstate commerce, and further evidence of the serious constitutional defects in the content of the Massachusetts statute. Federal law creates a consistent regulatory framework across states that is essential for the safe and efficient functioning of interstate commerce while ensuring safety and environmental protection on U.S. waters."

The new ruling will be reviewed by a sitting judge on the District Court, who will decide whether or not to officially issue a summary judgment. The recommendations of magistrate judges are commonly accepted by the District Court. Massachusetts has until the end of August to register objections.

AWO members will continue to operate in compliance with existing Coast Guard regulations regarding tug escorts when transiting through Buzzards Bay.

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