

Recreational Boating Association of Washington (RBAW)

Key 2021 Legislative & Regulatory Priorities

NOTE: This list of 2021 legislative and regulatory priorities represents a pre-Session snapshot in time of issues RBAW is aware of and poised to work on. As other legislative and regulatory matters arise leading up to and in-Session, RBAW may consider those for a formal position and follow-up action.

Legislative and Budget Priorities

Ensuring 2021-23 Capital Budget funding for Lakebay Marina: Having extended a purchase-and-sale agreement for the Lakebay Marina through Sept. 30, 2021, RBAW is now partnering with the Department of Natural Resources (DNR) on a \$1.7 million “Boating Facilities Program” (BFP) funding application for the 2021-23 Capital Budget. If successful, the grant application would enable the RBAW Marine Parks Conservancy to execute the purchase-and-sale agreement and deed the historic Lakebay parcels to DNR. Additionally, the BFP application contemplates a planning process that will involve mapping out and phasing needed improvements, securing necessary permits, doing public outreach, and more. RBAW will actively work to ensure the success of this Capital Budget funding initiative.

Working to ensure the Watercraft Excise Tax is used for purposes that relate to/benefit boating: Through a quirk of what was then Initiative 695 in the 1990s, and after the Legislature enacted much of what the courts had struck down, recreational boaters were left as the only payer of a state-based percentage excise tax (*the state’s fees on motor vehicles, planes, RVs, campers and the like are flat fees*). What is known as the “Watercraft Excise Tax” is paid annually by boaters on a percentage basis and generates \$30-to-\$32 million a biennium. However, that money goes into the State General Fund and thus is not used toward any purposes which benefit recreational boaters, even though they are the lone payer of this type of excise tax. RBAW wants to ensure that if the tax must be paid, that it goes toward purposes and programs that at least provide a benefit and direct service to boaters. RBAW hopes to work on ideas around future dedication of portions of the Watercraft Excise Tax to things such as the Derelict Vessel Removal Program, or critical pump-out services.

Support enhancements to the Derelict Vessel Removal Program (DVRP) while urging the Legislature to look at more sustainably funding the program in the future: RBAW supports a Department of Natural Resources (DNR) \$5.6 million funding request for the 2021-23 biennium that will help address the backlog of derelict vessels needing to be removed from Washington waters, and further a pilot initiative to look at how the materials from derelict vessels could be recycled in the future. Of the \$5.6 million request, much of the Capital funding (\$2.6 to \$2.95 million) would go toward removal of the *Hero* from Pacific County waters. While RBAW supports this DNR request, we urge that DNR and Commissioner Hilary Franz work with the Association on a longer-term push to more sustainably fund the DVRP and to have other sectors of boating and maritime – including commercial vessels – paying their fair share. At the present time, the \$3 per vessel registration equivalent paid in by recreational boaters ends up funding 85 to 90 percent of the DVRP. This is an area where RBAW would like to see some Watercraft Excise Tax dollars deployed for an important boating purpose.

Protect the Recreation Resource Account (“Boating Facilities Program”) appropriation in the 2021-23 Capital Budget: The BFP is expected to include about \$16.2 million to fund projects put forth by state resource agencies and local agencies operating boating facilities. This funding is from unclaimed refunds that boaters are technically allowed to pursue since their gas-tax purchases are for “non-highway purposes.” However, boaters rarely declare for such refunds. Thus, RBAW strongly supports the BFP as a way to improve the infrastructure that supports an \$8 billion a year recreational boating sector.

Track legislative discussions around boating safety to ensure any legislation put forth in 2020 does not impose undue burdens or mandates on recreational boaters: After legislation in this area bogged down in 2020, House Housing, Community Development, and Veterans Committee Chair Cindy Ryu (D-Shoreline/32nd Dist.) indicates she once again wants to look at changes to state law to enhance boating safety. While RBAW deeply appreciates Rep. Ryu’s admirable intentions, we have concerns – absent compelling data -- about adding “wear at all times” requirements for Personal Flotation Devices (PFDs) on all registered vessels. Last Session, Rep. Ryu sponsored both HB 2443 on PFDs and HB 2444 to turn the Boater Education Card requirement into an ongoing renewal program. Neither bill passed in 2020.

Support Incentives to Enhance Opportunities for Visiting Boats to Charter in Washington: RBAW’s partners at the Northwest Marine Trade Association (NMTA) are working on possible legislation to improve the environment for visiting boats. Under current law, if a skipper and crew are provided for a charter trip (*which is standard for larger vessels*), use tax is assessed on the entire value of the vessel. NMTA hopes to revise the law so that the sales tax only applies to the value of the vacation trip rather than the value of the entire vessel. It is hoped that such a change would make it much more likely for visiting vessels to charter trips into Washington. RBAW is poised to support this change.

Work to ensure that as the state moves forward with an eventual transition to a “Road Usage Charge,” constitutionally protected funds for recreational boating, off-road vehicles, and snowmobiles are not swept away: In recent years, as the “buying power” of the fuel tax has diminished (*more electric vehicles, more fuel-efficient vehicles, higher efficiency standards*), the Legislature has put more evaluation, study time, and pilot-program effort into looking at an ultimate transition to a “Road Usage Charge” that would utilize a vehicle-miles-traveled fee to someday replace the gas tax. A concern of boaters, ORV riders, and snowmobilers is that within the system of gas tax collections and accounts, constitutionally protected funding is collected and set aside for infrastructure related to boating and ORVs and for grooming of trails used by snowmobilers. In 2021 and beyond, these groups will band together to work to ensure that dedicated funding can remain in place for these outdoor recreation uses.

Big Tent Outdoor Recreation Coalition & Outdoor Recreation Caucus: RBAW is a member of the “Big Tent” and continues to support and contribute to its efforts to raise the profile of the outdoor recreation sector. The Big Tent Coalition also works closely with an Outdoor Recreation Caucus composed of numerous legislators and stakeholders. RBAW supports the ongoing work of the Big Tent and the ORC.

Federal-State-Local Regulatory Matters

Federal – Working with the Northwest Marine Trade Association and Others to Un-Stall Permits Held up by Northwest Marine Fisheries Service (NMFS) Guidance on Marina Upgrades: RBAW, NMTA, Ports, the Pacific Northwest Waterways Association, and others continue to have frustrations over 2018 “guidance” issued by NMFS that would impose a new and costly level of mitigation requirements on marina projects – even those involving maintenance and materials-replacements that are an upgrade for the marine environment. At this writing, some 39 marina upgrade permits have now been on hold for 2+ years due to the new NMFS ‘guidance.’ NMTA, RBAW, individual yacht clubs, and others are now banding together to hire the Thompson Consulting Group, which has extensive experience working on Environmental Species Act (ESA) related issues, to help our Associations and allied organizations to break this gridlock.

Federal Pass-Through Funds (Clean Vessel Act) -- Mobile Pump-Out Services for Boaters – particularly in areas such as Lake Washington and Puget Sound: Ever since Washington State Parks terminated a Clean Vessel Act grant-funding contract arrangement with Terry & Sons in 2019, highly-used areas of Lake Washington and the Sound have been without a mobile pump-out service they can depend upon. RBAW is now working with State Parks on a new grant-funding program that, hopefully, can result in a pool of applicants early in 2021 and a selection of one or more entities that can have mobile pump-out services available on the water before the 2021 Opening Day of boating season. RBAW will need to work with NMTA and others to promote the aforementioned program and ensure there is a viable list of mobile pump-out service providers who apply.

Federal -- No Discharge Zone (NDZ) Established by the Department of Ecology (DOE): RBAW and other recreational and commercial boating organizations were not fans of a Puget Sound-wide NDZ. However, now that it has been established, RBAW wants to ensure boaters are aware and educated and that any enforcement waits several years until the recreational boating communities know the NDZ boundaries and the rules of the game. RBAW will continue to help educate recreational boaters about potential NDZ impacts and continue to track pending legal challenges to the establishment of the NDZ.

State -- Aquatic Lands Lease Process with Department of Natural Resources (DNR): RBAW will continue to be a strong advocate of its Yacht Clubs and boating clubs that operate marinas on DNR aquatic lands and are subject to the agency’s leasing and lease-renewal requirements. RBAW and our colleagues at NMTA hold quarterly meetings with DNR Aquatics staff. At the present time, one work item is to ensure DNR can be as flexible as possible in granting longer-term leases to boating clubs and marina operators that must finance expensive upgrades to their facilities.

State -- Capitol Lake/Lower Deschutes Management Plan – EIS Work: The state Department of Enterprise Services continues to work on the EIS and has been good about doing outreach to RBAW Members (Olympia Yacht Club) in the South Sound area. RBAW will support efforts by OYC to ensure that any Capitol Lake/Lower Deschutes management plan preserves boating facilities and waterways.

State – Rules for Commercial Whale-Watching Operators Who Take People Out to View Southern Resident Killer Whale (SRKW) populations: RBAW is tracking these pending rules just put forth in draft form by the Washington State Department of Fish and Wildlife

(WDFW) and applying primarily to whale-watching operators. In 2019, RBAW, the Northwest Marine Trade Association, whale watching organizations and others worked through a Task Force process and legislative discussions to arrive at a carefully negotiated measure regarding distances and regulations covering vessels in the presence of SRKWs. Specifically, **2SSB 5577** put in law a new 300-yard distance bubble between vessels and Southern Resident Killer Whales (*400 yards for boats to stay behind the whales*) and a 7-knot go-slow zone within one-half nautical mile when whales are present. RBAW and NMTA also worked collaboratively with Washington State Parks to obtain \$150,000 in Operating Budget funds to incorporate “Be Whale Wise” educational materials into the boater education card curriculum and to heighten awareness and information for boaters with regard to the importance of staying clear of SRKW pods. Legislators specifically rejected larger “no-go” zones and the imposition of new fees on boaters. RBAW and NMTA have concerns over the draft rules impacting commercial whale-watching operators and our Associations have submitted a joint letter to WDFW.

Local - Protecting the Funding and Operations of the Seattle Harbor Patrol: In the wake of the George Floyd killing in Summer 2020 and national calls to de-fund police operations, the Seattle City Council is examining the future role, funding, and operations of the Seattle Harbor Patrol. RBAW, NMTA, maritime industrial councils, and others will work to ensure Harbor Patrol funding does not suffer draconian cuts and that Harbor Patrol operations are not moved into the Seattle Fire Department.

Local -- Ensuring Responsible Boaters Can Continue to Enjoy Andrews Bay: In recent months, in the aftermath of irresponsible noise levels and partying by a minority of boaters who enjoy Andrews Bay (*at the South end of Lake Washington near Seward Park and west of Mercer Island*), RBAW learned of a call by some Seward Park homeowners for boating in Andrews Bay to be banned outright. RBAW, NMTA, Yacht Clubs and others are instead calling for more thoughtful solutions that could involve things such as permitting system, designated buoys, targeted enforcement patrols, etc. Seattle City Councilmember Tammy Morales held an Oct. 21 meeting on this topic and her office will further examine potential resolution of this issue early next year. RBAW will fight to ensure that the vast majority of boaters who responsibly go into Andrews Bay can continue to do so while enjoying this overnight-mooring location.

Local -- Landing Zone on Lake Union: RBAW has worked closely with Kenmore Air on the designation of this zone during hot summer months. RBAW has been pleased that the Landing Zone is voluntary in nature and that boaters and other vessels can still move freely around Lake Union. RBAW will work to ensure the Lake Union landing zone remains one that works flexibly for boaters.

Local – Salmon Bay Railroad Bridge – Ensuring Tie-Down Areas for Boaters: This is another issue where RBAW and NMTA have worked together to ensure recreational boaters are not displaced in any way. More than two years ago, the Burlington Northern Santa Fe Railroad embarked on the idea of completing replacing the circa-1984 Salmon Bay Railroad Bridge adjacent to the Ballard Locks. The \$50 million replacement bridge project was of some concern to recreational boaters, as the footings around the bridge provide an immensely popular tie-down area for boaters. BNSF had pledged to retain such areas and, even better, has recently announced that it will do more targeted replacement work that keeps much of the vintage draw bridge in place. RBAW will track this process to ensure the areas enjoyed by boaters can remain intact.