



Overview of the Land Use Enforcement Process

**New Jersey Department of Environmental Protection
Bureau of Coastal and Land Use Compliance and
Enforcement**

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Disclaimer: The following is a training document . It is not intended to be a guide for compliance nor should it be distributed to the public

Development in Flood Plains Leads to Future Problems



Top Soil Depot

Pompton River

YOU NEVER KNOW WHEN THE RIVER WILL RISE...



Fairfield Township – August 2011

Regulations We Enforce

- **Acts and Statutes**

Freshwater Wetlands Protection Act, N.J.S.A. 13:B-1 et seq.

Flood Hazard Area Control Act , N.J.S.A 58:16A-52 et seq.

Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq.

Waterfront Development Statutes, N.S.A. 12:5-3 et seq.

The Wetlands Act of 1970, N.J.S.A 13:9A-1 et seq.

Highlands Water Protection and Planning Act, N.J.S.A 13:20-1 et seq.

Riparian Lands Statutes (Tidelands Act), N.J.S.A. 12:3-1 et seq.

- **Rules and Regulations**

Freshwater Wetlands Protection Act, N.J.A.C. 7:7A-1

Flood Hazard Area Control Act (Stream Encroachment), N.J.A.C. 7:13-1

Highlands Water Protection and Planning, N.J.A.C. 7:38-1

Coastal Permit Program Rules, N.J.A.C. 7:7-1

Coastal Zone Management Rules, N.J.A.C. 7:7E

A Possible Land Use Violation has been discovered

NOW WHAT???

- Call NJDEP 24 hour Hotline to report it
1-877-927-6337 or
- Call Bureau of Coastal & Land Use Compliance &
Enforcement

North – Chester Office 908-879-3769

Central – Trenton Office 609-292-1240

South- Toms River Office 732-255-0787

Somewhere in Hudson County...



Somewhere in Union County...



Somewhere in Somerset County...



What Wetlands? What Transition Area? What Conservation Easement?

Somewhere in Cumberland County...



Electrical
"Service"

Water Line

Sewage Line

CODE? WHAT CODE?

What happens when there is a violation?

- Once investigated and confirmed through a site inspection, a Notice of Violation is issued to the property owner, identifying the violation and options for resolution. This document may not be appealed.
- The owner is advised to respond in writing, generally within 10 days, as to their course of action.
- Options include:
 - a) Apply for a permit to legalize the activity (approval can't be given unless the activity meets all standards in the regulations)
 - b) Remove violation/restoration, and/or mitigation.
- If the physical violation is resolved quickly, our Bureau generally reduces or does not issue a penalty. * determined on a case by case basis

What happens when there is a violation?

Other Options:

- Issue an Administrative Order (AO)
This AO may also include the assessment of administrative penalties (NoCAPA)
- When both parties are willing participants, the NJDEP can enter into an Administrative Consent Order (ACO)

What happens when there is a violation?

- AO's and AOnoCAPA's can be appealed to the Office of Administrative Law
- A settlement agreement may require compensation for the area disturbed that has not been satisfactorily restored beyond that which would be required as a result of a permit

Onsite Restoration is the Goal



What happens when there is a violation and lack of cooperation?

- Under certain statutes, the NJDEP has the authority to record the Notice of Violation on the deed of record for the property where the violation occurred.
- This notice will not be removed until the violation is corrected to the satisfaction of the NJDEP.

Self Reporting Violations

- If the disclosure meets the requirements of the rule and a regulated entity discovers, reports and corrects the violations they are eligible for a 75- 100% reduction of the penalty
- Forms/process available on NJDEP website
- Repeat offenders generally not eligible
- A settlement document is drafted which:
 - describes violation(s)
 - schedule for achieving compliance
 - basis for reduced penalty

Supplemental Environmental Projects (SEPs)

An environmentally beneficial project that a violator voluntarily agrees to perform as a condition of settling an enforcement action.

A SEP is an activity that the violator would not otherwise have been required to perform, and in which the public and/or the environment is the primary beneficiary.

Why would a regulated entity want to conduct a SEP?

- Opportunity to go beyond “return to compliance”
- Opportunity to reduce harm to the environment that noncompliance caused
- Opportunity to show community, investors and the public that they recognize the importance of the environment and environmental stewardship
- Opportunity to foster better relationships with neighbors

SEP Policy/Guidelines

- During settlement discussions, NJDEP staff will communicate with the regulated entity about SEP's and their benefits
- Acceptance of a SEP as part of a settlement agreement is at the discretion of the NJDEP
- After the final penalty settlement amount is determined, the penalty is then adjusted to account for the cost of the SEP... up to 75% to of the total penalty. (25% of final penalty must be paid. 50% for WPCA violations)

Completed SEP examples

- retrofitting diesel vehicles
- installation of Osprey nesting platforms
- storm water basin improvement
- solar panel installation
- remediation of a closed gas station
- land preservation

Future SEP goals for CLUE Program

- **Water Quality Improvements**
- **Stream and Riparian Zone Stabilization and Restoration**
- **Reforestation Projects**
- **Flood Storage Expansion**
- **Biodiversity Enhancement**
- **Invasive Species Abatement & Control**
- **Habitat Enhancement / E&T Species Habitat**
- **Barnegat Bay Restoration**
- **Overburdened Communities**



ROUTE 23

Pequannock Township August 29, 2011



Route 1 Lawrence/West Windsor

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Questions & NJDEP BCLUCE Contact Information



- **QUESTIONS???**
- **BCLUCE Offices**
 - **Trenton Office, (609) 292-1240**
 - **Counties:** Northern and Central Burlington, Southern Bergen, Camden, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Western Monmouth, Eastern Morris, Western Ocean, Eastern Passaic, Somerset, & Union
 - Mailing Address: 401 East State P.O. Box 420, Mail Code 401-04C, Trenton, NJ 08625
 - **Toms River Office, (732) 255-0787**
 - **Counties:** Atlantic, Southern Burlington, Cape May, Cumberland, Eastern Monmouth, Eastern Ocean, & Salem
 - Mailing Address: 1510 Hooper Ave, Suite 140, Toms River, NJ 08753
 - **Chester Office, (908) 879-3769**
 - **Counties:** Northern Bergen, Passaic, Morris, Sussex, & Warren
 - Mailing Address: 100 North Road, Chester, NJ 07930