



DEP's Land Use Permittees Receive Violations for Administrative Conditions

The Department's Bureau of Coastal and Land Use Compliance and Enforcement (CLUE) now conducts more permit compliance inspections than ever before. CLUE is conducting an ongoing initiative to better monitor and strictly enforce all conditions, requirements, and limitations of DEP Land Use permits. These Land Use permits include:

- Freshwater Wetlands
- Coastal Area Facility Review Act (CAFRA)
- Stream Encroachment
- Waterfront Development
- Wetlands Act of 1970 (Coastal Wetlands)
- Highlands Preservation Area Approval (HPPA)

If you are conducting activities regulated pursuant to any of these Statutes, expect a thorough inspection from DEP's CLUE during the site preparation and construction phases of the project.

CLUE has determined that a substantial number of permittees are failing to comply with the administrative requirements of these permits (as well as other violations) and therefore receive Notices of Violation and substantial penalty assessments. The following is a list of the most common transgressions:

- 1. Failure to file the permit with the county clerk** – Do not start activities on a site until the permit has been obtained and recorded with the county clerk.
- 2. Failure to gain Department approval of deed restrictions or conservation easements and file them with the county clerk prior to the initiation of regulated activities** – Many permits require a part of the site to be deed restricted, permanently preserving those areas from being developed. Filing the deed restriction or conservation easement with the county clerk is a way to notify all future owners or interested parties that parts of the site are permanently preserved. Types of restrictions and easements include those for public access, dune conservation, freshwater wetland transition areas, forest preservation, shore protection structure areas, stormwater management strategies protection areas and shellfish habitats. Site specific details regarding a deed restriction or conservation easement, if required, will be contained in your permit. Failure to file or comply with the deed restriction or conservation easement can expose lands to improper development that may impact the local environment by causing degradation of water quality, flooding, and loss of wildlife habitat. Those who fail to file or comply with the deed

COMPLIANCE ADVISORY

restriction or conservation easement may face costly mitigation, restoration and/or penalties.

- 3. Failure to apply for a permit modification when a permit changes hands or project specifications change** – Make sure the permit and plans reflect exactly what you intend to do on the site, if not, get the permit/plan modified. The permit holder is responsible for complying with exactly what the permit calls for.
- 4. Failure to notify the Department prior to the commencement of construction activities** – Site specific details regarding notification requirements are specified within each permit. Please refer to your permit for this information.
- 5. Failure to maintain the permit and a full set of approved plans on-site** – This is a standard condition of all permits.

Other violations that are commonly observed:

Failure to provide mitigation as required – Some permits require the creation of on or off-site wetlands in exchange for wetlands or wetland transition areas utilized or filled for development purposes. Mitigation activities must be approved by the Division of Land Use Regulation and must be conducted consistent with the permit.

Clearing or disturbing of land in excess of what is authorized in the permit/plans – Ensure that all employees and subcontractors are familiar with the requirements and restrictions of all permits and plans for the site, including the limits of disturbance.

Who should I contact with questions?

Bureau of Coastal and Land Use Compliance and Enforcement (609) 292-1240

Division of Land Use Regulation (609) 292-0060

Where can I get more information?

The following web sites can be accessed for additional information regarding this advisory:

Land Use Regulation

www.nj.gov/dep/landuse/

Bureau of Coastal and Land Use Enforcement

www.nj.gov/dep/enforcement/clue.html

Examples of several types of deed restrictions/conservation easements:

<http://www.state.nj.us/dep/landuse/forms/index.html#6>

Visit the following Web site for general information:

Contact NJDEP: <http://www.nj.gov/cgi-bin/dep/contactdep.pl>

Please note this advisory is intended to be a summary explanation of a department initiative. It does not include all potentially applicable requirements. If you have any questions related to compliance with this initiative, please contact the Enforcement number listed above.