



COMPLIANCE ADVISORY ENFORCEMENT ALERT

Making You Aware of Incentives and Compliance Assistance Opportunities

Compliance & Enforcement

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DEP Waterfront Development Compliance Initiative

Who is affected by this initiative?

Marine contractors performing work at a residential site including the construction, replacement, or repair of regulated waterfront structures such as bulkheads, piers, mooring piles, boat and Jet Ski lifts, and docks (including floating docks and Jet Ski ports).

Why is DEP focusing on marine construction?

Most construction activities in and fronting on tidal waters in New Jersey require either a waterfront development permit or a CAFRA permit issued by the Department of Environmental Protection (DEP). The only exception is the in-kind replacement (i.e., same exact size, location and configuration) of a residential or recreational dock, pier or bulkhead that either existed prior to 1981, or was originally constructed under a valid permit issued by DEP. These structures are so-called "Zane exempt" from having to secure a new permit from DEP. A jurisdictional determination establishing that a structure is Zane exempt may be obtained from the Division of Land Use Regulation, upon application.

The DEP Bureau of Coastal and Land Use Compliance and Enforcement (CLUE) has discovered numerous instances of docks, piers and bulkheads having been constructed either without permits or in locations and configurations other than that which was permitted. Permittees and/or marine contractors shall comply with the rules and/or permits that are applicable for waterfront work, specifically the:

Waterfront Development Law (N.J.S.A. 12:5-3),
Coastal Area Facilities Review Act (N.J.S.A. 13:19-1 et seq.),
Riparian Lands Statutes (N.J.S.A. 12:3-1 et seq.), and the
Coastal Permit Program Rules (N.J.A.C. 7:7-1 et. seq.).

These provisions safe guard the boating public by ensuring that waterfront structures do not unreasonably interfere with navigation and are properly lit or marked; they also protect sensitive aquatic and land environments near the water's edge vital to fish, shellfish, wildlife and ecological processes.

What is DEP doing?

The DEP CLUE and the DEP Water Enforcement Team (WET) will conduct unannounced standard compliance inspections, by boat, at active waterfront construction sites to ensure compliance with the Coastal Permit Program Rules and permits issued by DEP. If a DEP permit has been issued a copy of the permit and approved construction plans are required to be on-site and available for inspection at all times during construction.

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What should I do?

1. **Obtain the required permit prior to conducting regulated activities like building, replacing, repairing, or expanding waterfront structures.**
2. **Comply with all permit administrative conditions** - Do not start activities on a site until the required permit has been obtained and all administrative conditions of the permit have been met. Examples of common administrative conditions may include: a) recording the permit and/or conservation deed restriction onto the deed of the property; b) submitting a permit acceptance form and construction notification; c) completing any mitigation requirements (such as payment of the required monetary contribution for shellfish mitigation); d) obtaining a Tidelands grant, lease, or license, and/or e) obtaining all other required approvals (such as a municipal construction approval).
3. **Complete the construction in accordance with the approved permit and plans** - The work must be completed as depicted on the approved permit plans. For example, approved structures such as docks, mooring piles and lifts must be constructed to the size and location as depicted on the approved plans. No structures shall be constructed that are not depicted on the approved plans. No changes can be made to the approved plans without first obtaining written approval via a permit modification from the DEP's Division of Land Use Regulation.
4. **Have a copy of the approved permit and plans onsite during construction.**
5. **Obtain a permit for dredging activity** - The removal and backfilling of a bulkhead with material taken from below the mean high waterline is considered dredging. ALL dredging activity requires a dredging permit from the DEP's Office of Dredging and Sediment Technology.
6. **Homeowners should ensure the contractors they hire are properly registered.** Registered contractors are listed on the Division of Consumer Affairs website at www.nj.gov/lps/ca/contractor.htm.
7. **Contact the DEP hotline at (877) WARN DEP to report possible violations of the State's Land Use Laws.**

Who should I contact with questions?

Coastal & Land Use Compliance and Enforcement (732) 255-0787 or (609) 292-1240.

Where can I get more information?

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

Land Use Regulation <http://www.state.nj.us/dep/landuse/>

Compliance & Enforcement <http://www.nj.gov/dep/enforcement/>

Division of Consumer Affairs <http://www.njconsumeraffairs.gov/hic/Pages/default.aspx>

To comment on this advisory:

<http://www.nj.gov/dep/enforcement/survey.html>

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 numbers listed above.