



COMPLIANCE ADVISORY ENFORCEMENT ALERT

Making You Aware of Incentives and Compliance Assistance Opportunities

Compliance & Enforcement

Issued: November 30, 2018

#2018-11

DEP Beach Maintenance Compliance Initiative

Who is affected by this initiative?

Municipalities and private property owners performing work on a beach, specifically moving sand to construct temporary, linear sand piles (often referred to by some as sand berms) in the fall/winter, with the redistribution of the sand pile on the beach in the spring.



Why is DEP focusing on this practice?

Construction and maintenance activities on beaches and dunes in New Jersey typically require a Coastal Area Facilities Review Act (CAFRA) permit issued by the Department of Environmental Protection (DEP) Division of Land Use Regulation (DLUR). The construction of temporary, linear sand piles on a beach is a regulated activity and would require a CAFRA Individual permit. Failure to obtain a CAFRA permit is a violation of the law. The necessary CAFRA approval would require compliance with the applicable statutes and implementing rules for this regulated activity, specifically the following:

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

In some instances, these temporary sand piles could be constructed in a manner that may negatively impact the natural or constructed beach and dune system. According to the DEP Division of Coastal Engineering (DCE), any excavation below the Army Corps of Engineers (USACE) Federal Beach Nourishment project design profile could negatively impact the design project performance. When beach scraping is done at rates exceeding the natural rate of recovery of the beach and conducted in a manner that creates unnatural slopes and cuts in the foreshore region of the beach profile, erosion could increase.

What is DEP doing?

The DEP Bureau of Coastal and Land Use Compliance and Enforcement (CLUE) is providing notice to oceanfront municipalities and property owners that they are required to submit and obtain the necessary permit(s) from the Department's DLUR prior to constructing temporary sand piles.

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30 days from the issuance of this Compliance Advisory, CLUE will conduct standard compliance inspections to ensure compliance with the statutes and rules listed above, and with the requirements of any CAFRA permits issued by DEP.

What should I do?

1. **Obtain the required CAFRA Individual permit prior to the construction of temporary, linear sand piles on the beach.**
2. **Comply with all permit conditions** - Do not begin these activities on a site until the required CAFRA Individual permit has been obtained and all pre-construction conditions of the permit have been met. These activities will typically require a pre-construction survey of the beach and a consultation with the DEP DCE to receive approval for the construction. It should be noted that post-construction surveys will also be required.
3. **Complete the construction in accordance with any approved permit and plans** - The work must be completed as depicted on the approved permit plans and be in compliance with all permit conditions. No changes can be made to the approved plans without first obtaining written approval via a permit modification or new permit from the DEP's Division of Land Use Regulation.
4. **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?

Land Use Regulation Permit Guidance

Division of Land Use Regulation, Technical Support Center (609) 777-0454

Coastal Engineering Guidance

Division of Coastal Engineering, (732) 255-0767

Coastal and 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, additional contact information and to obtain information regarding DEP DLUR regulations and permitting forms/checklists:

DEP Division of Land Use Regulation <http://www.state.nj.gov/dep/landuse/>

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

DEP Division of Coastal Engineering <https://www.nj.gov/dep/shoreprotection/>

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.