



# Enforcement **Alert**

*Making You Aware of Anticipated Enforcement Activities*

Compliance and Enforcement

Issued: March 2008

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## **Adoption of Enforcement Enhancement Bill strengthens provisions of environmental statutes, increases penalty authority.**

### **Who is affected by this change?**

Anyone who conducts or intends to conduct regulated activities or obtains permits from DEP including consultants, engineers, and attorneys who advise those conducting the activities under the following laws:

- (1) R.S.12:5-1 et seq., commonly known as the “Waterfront Development Act”;
- (2) the “Pesticide Control Act of 1971,” P.L.1971, c.176 (C.13:1F-1 et seq.);
- (3) “The Wetlands Act of 1970,” P.L.1970, c.272 (C.13:9A-1 et seq.);
- (4) the “Freshwater Wetlands Protection Act,” P.L.1987, c.156 (C.13:9B-1 et seq.);
- (5) the “Coastal Area Facility Review Act,” P.L.1973, c.185 (C.13:19-1 et seq.);
- (6) “The Endangered and Nongame Species Conservation Act,” P.L.1973, c.309 (C.23:2A-1 et seq.);
- (7) the “Water Supply Management Act,” P.L.1981, c.262 (C.58:1A-1 et seq.);
- (8) the “Safe Dam Act,” P.L.1981, c.249 (C.58:4-8.1 et seq.);
- (9) the “Safe Drinking Water Act,” P.L.1977, c.224 (C.58:12A-1 et seq.); and
- (10) the “Flood Hazard Area Control Act,” P.L.1962, c.19 (C.58:16A-50 et seq.).

### **What Has Occurred?**

On January 4, 2008, the Enforcement Enhancement Bill (S-2650/A-4287) became law. The Department supported this legislation as it brings the Enforcement provisions of the above existing environmental laws up to current standards so that they can now be addressed by enforcement actions that are consistent, efficient, timely, and can be brought into the Office of Administrative Law. Previously, several of the statutes lacked sufficient penalty assessment authority to provide for a deterrent to future violations as well as compel compliance in a timely manner. In some situations, violations could have continued as a ‘cost of doing business’ with a corresponding delay in compliance resulting in negative impacts to the environment. This Law accomplishes the following four things:

- uniformly increases maximum penalty amounts to \$25,000 per violation per day,
- authorizes daily penalty assessments for continuing violations,
- authorizes the recovery of compensatory damages for any loss or destruction of natural resources, and
- clarifies criminal provisions for purposeful, knowing, and reckless violations or falsifications.

# COMPLIANCE ADVISORY

## What is DEP doing?

While DEP will continue to emphasize the primary goal of attaining compliance while it exercises its normal enforcement discretion, deliberateness, and reasonableness in initiating enforcement actions, violators of the above laws may experience increased penalties for violations, especially against commercial for-profit entities. Affected entities should also be advised that continuing violations, those not aggressively corrected upon notice, shall be assessed on a continuing basis. DEP is authorized to utilize these new authorities immediately and intends to do so while concurrently codifying the new powers through the rule writing process.

## What should I do?

The basic message of this legislation is: don't violate the law. The penalties for non-compliance with the laws listed above will likely be higher than in previous Department actions, especially for repeat or commercial entities.

## Who should I contact with questions?

### Bureau of Coastal and Land Use Compliance and Enforcement:

Central Jersey Trenton Office	(609) 292-1240
Coastal Areas Toms River Office	(732) 255-0787
Highlands Office	(908) 879-3769
Pesticides Enforcement	(609) 984-6568
Division of Land Use Regulation for permitting questions:	(609) 777-0454

## Where can I get more information?

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

Land Use Enforcement:	<a href="http://www.nj.gov/dep/enforcement/lu.html">http://www.nj.gov/dep/enforcement/lu.html</a>
Land Use Regulation:	<a href="http://www.nj.gov/dep/landuse/">http://www.nj.gov/dep/landuse/</a>
DEP Coastal Management Program:	<a href="http://www.nj.gov/dep/cmp/">http://www.nj.gov/dep/cmp/</a>

Visit the following Web site for general information:

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

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.