

HB 645-FN - AS AMENDED BY THE HOUSE

19Mar2019... 0933h

2019 SESSION

19-0768

08/03

HOUSE BILL **645-FN**

AN ACT establishing a dock registration procedure.

SPONSORS: Rep. Renzullo, Hills. 37

COMMITTEE: Resources, Recreation and Development

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ANALYSIS

This bill establishes a procedure for voluntarily registering docks with the department of environmental services.

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Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

19Mar2019... 0933h 19-0768

08/03

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT establishing a dock registration procedure.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 Excavating and Dredging Permit; Registration for Seasonal Docks. Amend RSA 482-A:3, I(d)-(e) to read as follows:

(d) ***If an applicant chooses to register a seasonal dock, at the time the applicant registers with the department, he or she shall also submit a nonrefundable fee of \$200.***

(e) At the time the applicant files the application with the department, the applicant shall provide written notice of the proposed project to:

(1) All abutters, as defined in the rules of the department, unless exempted in such rules, which shall be provided by certified mail or other delivery method that provides proof of receipt. The applicant shall retain such receipts and provide copies to the department upon request. The department shall have no obligation to verify the identity of abutters or their receipt of notice. Any abutter who has actual notice of the filing of an application shall have no cause to challenge the application based on failure to receive written notice. Nothing in this subparagraph shall prevent the department from taking appropriate action in the event an applicant fails to provide the required notice or provides false information.

(2) The local river management advisory committee if the project is within a river corridor as defined in RSA 483:4, XVIII, or a river segment designated in RSA 483:15. Such notice shall be sent by certified mail or other delivery method that provides proof of receipt. The applicant shall retain such receipts and provide copies to the

department upon request. The local river management advisory committee shall, under RSA 483:8-a, III(a)-(b), advise the commissioner and consider and comment on the permit application.

~~(e)~~ (f) Beginning October 1, 2007, the department shall submit an annual report to the house and senate finance committees, the house resources, recreation and development committee, and the senate energy and natural resources committee relative to administration of the wetlands fees permit process established by this section.

2 Excavating and Dredging Permit; Certain Exemptions. Amend RSA 482-A:3, IV-a to read as follows:

IV-a. (a) ~~Temporary~~ Seasonal docks ~~[installed on any lake or pond]~~ shall be exempt from the permitting requirements of this section, provided that a notification is sent to the department by the owner of property that includes the name and address of the property owner, **a copy of the deed for the property on which the dock is to be installed**, the municipality, the waterbody, ~~and~~ tax map and lot number on which the proposed dock will be located, **and plans of the waterfront and structure to be installed showing that the requirements of this paragraph will be met.** To qualify for an exemption under this paragraph, a ~~temporary~~ seasonal dock shall be:

- ~~(a)~~ (1) The only docking structure on the frontage;
- ~~(b)~~ (2) Constructed to be removed during the non-boating season;
- ~~(c)~~ (3) Removed from the lake bed for a minimum of 5 months of each year;
- ~~(d)~~ (4) Configured to be narrow, rectangular, and erected perpendicular to the shoreline **of a lake or pond or parallel to the bank of a river**;
- ~~(e)~~ (5) No more than 6 feet wide and no more than 40 feet long if the water body is 1,000 acres or larger, or no more than 30 feet long if the water body is **a river or less than 1,000 acres in size**;
- ~~(f)~~ (6) Located on a parcel of land that has 75 feet or more of shoreline frontage;
- ~~(g)~~ (7) Located at least 20 feet from an abutting property line or the imaginary extension of the property line over the water;
- ~~(h)~~ (8) Installed in a manner which requires no modification, regrading, or recontouring of the shoreline, such as installation of a concrete pad for construction of a hinged dock;
- ~~(i)~~ (9) Installed in a manner which complies with RSA 483-B; and
- ~~(j)~~ (10) Installed in a location that is not in, or adjacent to, an area that has been designated as a prime wetland in accordance with RSA 482-A:15.

(b) **The repair or replacement of legally existing docking facilities in non-tidal waters shall be exempt from the permitting requirements for this section, provided that the structure has a valid registration filed with the department by the owner of the property, in accordance with RSA 482-A:11, XI, that includes the name and address of the property owner, the municipality, the waterbody, tax map and lot number on which the proposed dock will be located, photographs of all existing structures constructed or installed in the waterbody, and plans of the waterfront and structures to be repaired showing that the requirements of this paragraph will be met. To qualify for an exemption under this paragraph, the owner of the docking facilities shall provide evidence that the docking structures to be repaired:**

- (1) **Have been constructed and maintained in compliance with a permit issued under RSA 482-A or its preceding statutes;**
- (2) **Have been maintained in their current size, location, and configuration since January 1, 2000;**
- (3) **Were not constructed to make land in public waters;**
- (4) **Are not subject to RSA 482-A:26; and**
- (5) **Are not the subject of a department administrative order, consent decree, or court order that limits any aspect of the construction or use of the docking structures.**

(c) **Registrations for the repair or replacement of legally existing docking structures shall be effective on the date issued and shall be valid for 2 years or until ownership of the property changes, whichever occurs first.**

*(d) Within 10 business days of receipt of a registration filing, the department shall issue a written notice to the property owner stating that the registration has either been accepted and issued a registration number, or rejected. If the department does not respond within the 10-day period, the property owner or agent may submit to the department a written request for a response. If the department fails to respond to the written request within an additional 5 days the property owner or agent shall be deemed to have submitted a complete and qualifying registration and may proceed with the repair or replacement of the legally existing docking structures as presented in the registration filing. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in or under this chapter and RSA 485-A relative to water quality.*

*(e) Docking structures registered and maintained in accordance with section shall be considered to be in compliance with the permitting requirements of this chapter.*

3 New Paragraph; Administrative Provisions. Amend RSA 482-A:11 by inserting after paragraph X the following new paragraph:

XI. The commissioner shall adopt rules pursuant to RSA 541-A, establishing registration forms, the registration renewal process, and the display of registration number and the registration process for the installation of seasonal docking structures and the repair or replacement of legally existing docking structures pursuant to RSA 482-A:3, IV-a.

4 Posting of Permits; Display of Registration Numbers. Amend RSA 482-A:12 to read as follows:

482-A:12 Posting of Permits, ***Display of Registration Numbers***, and Reports of Violations. Project approval by the department shall be in the form of a permit, a copy of which the applicant shall post in a secured manner in a prominent place at the site of the approved project. The department shall mail a copy of such permit to the local governing body of the municipality where the project is located. ***Any registration number issued by the department pursuant to RSA 482-A:3, IV-a(c) shall be prominently displayed on the lakeward face of the docking structures.*** Any person proceeding without a posted permit shall be in violation of this chapter.

All state, county, and local law enforcement officers are directed to be watchful for violations of the provisions of this chapter and to report all suspected violations to the department.

5 Effective Date. This act shall take effect 60 days after its passage.

LBAO  
19-0768  
Amended 4/2/19

### HB 645-FN- FISCAL NOTE

AS AMENDED BY THE HOUSE (AMENDMENT #2019-0933h)

AN ACT establishing a dock registration procedure.

**FISCAL IMPACT:**     State                     County                     Local                     None

#### **METHODOLOGY:**

This bill establishes a procedure for voluntarily registering docks with the Department of Environmental Services. The Department indicates the bill would establish an optional registration process for all docking structures either built in compliance with a permit or which has been maintained at the same size and in the same location and configuration since January 1, 2000. The new registration process would allow docking structure owners to repair the structures without going through the current permitting process in RSA 482-A. The proposed fee of \$200 is equal to the minimum impact application fees currently required. As such, the Department assumes there will be no impact on state, county and local revenue or expenditures.

**AGENCIES CONTACTED:**

Department of Environmental Services



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



C. HEIDI GREYER  
DIRECTOR

**MINOR PROJECT CATEGORIES IN THE STATE OF MICHIGAN**

August 11, 2016

Established Under Part 301, Inland Lakes and Streams; Part 303, Wetlands Protection; and Part 325, Great Lakes Submerged Lands, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as Amended (NREPA)

**BACKGROUND INFORMATION**

**PURPOSE**

Part 301, Part 303, and Part 325 of the NREPA authorize the Department of Environmental Quality (DEQ), Water Resources Division (WRD), to define types of regulated activities that would be expected to have only minor impacts and that can, therefore, be reviewed through an expedited permit application process. This document defines those activities that the WRD has determined are Minor Project (MP) categories and also defines the legal authority and limitations for their use. These categories do not alter or replace current exemptions, but provide a mechanism for expedited processing of certain activities that are not exempt.

The purpose of the MP categories is to allow the WRD to evaluate applications for many minor activities without the delay of public noticing specific projects. The objective of the MP categories is to reduce the time and cost of the permit process for applicants proposing minor activities and to reduce the costs of administering the program while protecting aquatic resources.

Please note that the MP categories do not define projects that will be issued, but only those that may be considered for accelerated processing. Applications under an MP category may be issued, modified, or denied. Permits will be issued under an MP category only if it is determined that the proposed activity is in accordance with the criteria and requirements of the NREPA.

**MINOR PROJECT PROCEDURES**

A person seeking a permit under an MP category must submit a permit application on a form supplied by the WRD at [www.michigan.gov/jointpermit](http://www.michigan.gov/jointpermit). A preliminary determination of whether an application may be processed under an MP category is made by WRD staff when the application is received. Applications processed under MP procedures are typically reviewed without issuance of a public notice. However, before approving a specific project to proceed under an MP category, the WRD may provide public notice. A site inspection may also be conducted. The DEQ will provide written authorization for an approved project, or will otherwise notify the applicant in writing of the decision on the application.

If at any time in the review process, it is determined that an activity in a proposed project, although within an MP category, is likely to cause more than minimal adverse effects on the environment or aquatic resources, including high-value aquatic habitats, the WRD may require the application be processed as an individual permit application. The processing as an individual permit application may require the applicant to provide additional information and an additional application fee.

## REGULATORY AUTHORITY

Part 301 (Section 30105), Part 303 (Section 30312), and Part 325 (Section 32512a) provide that the WRD, after notice and opportunity for a public hearing, may establish MP categories of activities and projects that are similar in nature, have minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment. An MP category cannot be valid for more than 5 years.

## GENERAL CRITERIA FOR REVIEW

Part 301, Part 303, and Part 325 specify the criteria that must be met before a permit may be issued. These general criteria, as well as the specific criteria detailed later in the MP categories, must be met before the WRD can issue a permit under an MP category. Adverse impacts must be avoided and minimized to the greatest extent possible, and mitigation may be required.

## EXCLUSIONS

The types of activities described in this document can typically be processed under MP procedures. However, some activities will not qualify for this type of processing even if the listed criteria are met. Applications will not qualify for consideration under these categories if:

- A) It is determined that the proposed project would constitute a "major discharge of dredged or fill materials" or meets other criteria subject to federal review as defined in the Memorandum of Agreement between the DEQ and the United States Environmental Protection Agency (USEPA).
- B) The activity is associated with sensitive natural resources including:
  - 1. A federally designated wild and scenic river.
  - 2. A state or federally designated wilderness or environmental area.
  - 3. A state or federally listed or proposed threatened or endangered species (unless alternative procedures developed by the WRD are followed to coordinate with federal agencies, or the landowner has obtained a letter of no impact from the Department of Natural Resources [DNR]).
  - 4. An identified historic or archeological area.
  - 5. An identified recharge area for drinking water aquifers.
  - 6. An identified rare or unique ecological type.
- C) The WRD determines that a specific activity that would generally qualify under an MP category would, due to the proximity of other projects and the characteristics of the aquatic resources, cause more than minimal adverse environmental impacts;
- D) The project also requires a permit under Part 301; Part 303; Part 315, Dam Safety; or Part 325 of the NREPA but does not meet one of the General Permit (GP) or minor project (MP) categories under those parts.
- E) The project also requires a permit under Part 323, Shorelands Protection and Management; or Part 353, Sand Dunes Protection and Management, of the NREPA.

## NEED FOR OTHER PERMITS

A permit under an MP category does not remove the need for other applicable local, state, or federal permits.

**EXPIRATION DATE**

These MP categories modify and replace all existing MP categories under Part 301, Part 303, and Part 325 and shall expire on August 11, 2021, unless revoked or modified before that date.

Issued by: *Kim D. Fish*  
Kim Fish, Acting Chief  
Water Resources Division  
Department of Environmental Quality

Date: 8-11-2016

4. For new bridges:

- EW 67** The lowest bottom beam elevation is at or above the natural ground elevations on either bank.
- EW 67** The approach fill slopes to natural ground elevations within 10 feet of either side of the structure, unless the fill has been shown to be above the 100-year floodplain elevation.

**9. Culverts - Wetland Equalizer**

- Category applies to:
- Part 301, Inland Lakes and Streams
  - Part 303, Wetlands Protection
  - Part 325, Great Lakes Submerged Lands

The installation of equalization culverts in wetlands that meet all of the following:

- EW 67** The culvert is a minimum diameter of 18 inches.
- EW 67** The culvert is installed at the proper elevation for the purpose of water level equalization and must be buried 20% of the culvert diameter.
- EW 67** The culvert provides for the free flow of surface water or the movement of organisms between portions of a wetland system.
- EW 67** The culvert shall not increase drainage of any existing wetland areas.

**10. Dock**

- Category applies to:
- Part 301, Inland Lakes and Streams
  - Part 303, Wetlands Protection
  - Part 325, Great Lakes Submerged Lands

The construction of a dock for single-family residential, recreational watercraft use that meets all of the following:

- EW 67** This MP is limited to 1 permanent dock serving 1 single family residential property.
- EW 67** The structure will not unreasonably interfere with the navigability or boatability of the water involved or interfere with the riparian rights or use of the waters by others.
- EW 67** The structure shall be a linear single pier with no perpendicular extensions.
- EW 67** The structure shall not have roofs, sides, platforms, or decks.
- EW 67** The structure shall allow for the flowage of littoral materials and water.
- EW 67** The structure shall be placed in the center of the property or at least 1.5 times the dock length from any property lines, unless it is not feasible based on site conditions.
- EW 67** For Great Lakes and Section 10 waters under the federal Rivers and Harbors Act, the length or size of the proposed structure is not greater than the length or size of similar structures in the vicinity and on the waterbody.
  
- EW 67** For inland lakes and streams, the structure shall be of reasonable length to boatable water or at a length from the shoreline that is not greater than the length of similar structures in the vicinity and on the waterbody, whichever is the minimum necessary. The structure shall not exceed a width of 4 feet unless the applicant demonstrates their need for construction of a wider dock.

Seasonal docks to facilitate private noncommercial recreational use of the water do not require a permit if the dock does not unreasonably interfere with the use of the water by others or interfere with water flow.

**11. Drawdown**

- Category applies to:
- Part 301, Inland Lakes and Streams
  - Part 303, Wetlands Protection
  - Part 325, Great Lakes Submerged Lands



- The boat well excavation shall be a maximum of 20 feet (along the shoreline) by 40 feet. A new seawall along the interior of the boat well may be approved by the DEQ based on site conditions. New seawall along existing shoreline or any other structures are not included in this category.
- All dredged or excavated materials shall be disposed of in an identified non-wetland site.
- This MP category does not include dredging in wetlands.

2. Fill of boat wells previously constructed in upland that meets all of the following:

- For Part 301, this MP includes only Section 10 waters under the federal Rivers and Harbors Act of 1899.
- The fill will not impact more than 800 square feet.
- The previously existing shoreline shall be restored. Stabilization of the restored shoreline shall be limited to other MP and GP categories for those activities. The DEQ may approve up to 20 linear feet of seawall if there is an existing seawall adjacent to both sides of the boat well if necessary based on site conditions. Any seawall shall have toe stone (i.e., riprap) placed waterward along 100% of the length to prevent undercutting by wave action, to mitigate for the loss of habitat, and to provide a use for fish and other aquatic life. The toe stone shall be placed at a 1-on-2 slope (e.g., 1-foot vertical to 2 feet horizontal) or gentler. Toe stone shall be properly sized and consist of natural field stone or rock (broken concrete is not allowed). The toe stone shall extend from the lake/stream bottom to at least 6 inches above the ordinary high water mark but cannot extend more than 6 feet into the water. This toe stone shall be placed unless it is determined by the DEQ that less toe stone is required based on site conditions, navigation, or mooring.
- This MP category does not include fill in wetlands or permanent roofs, covers, or other structures.

**49. Docks on Public Land**

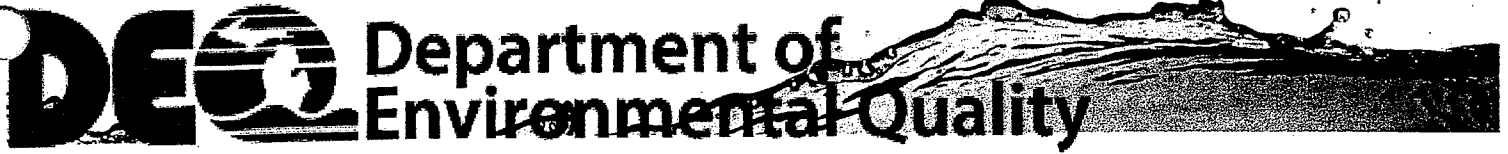
Category applies to:  Part 301, Inland Lakes and Streams  
 Part 303, Wetlands Protection  
 Part 325, Great Lakes Submerged Lands

The construction of a noncommercial dock on public land to facilitate launching and loading of recreational boats that meets all of the following:

- This MP is limited to 1 permanent or seasonal dock per property that is not used for overnight mooring or docking.
- The structure will not unreasonably interfere with the navigability or boatability of the water involved or interfere with the riparian rights or use of the waters by others.
- The structure shall be a linear single pier with up to one perpendicular extension for fishing access.
- The structure shall not have roofs, sides, platforms, or decks.
- The structure shall allow for the flowage of littoral materials and water.
- The structure and associated extension shall be placed in the center of the property or at least 1.5 times the dock length from any property lines, unless it is not feasible based on site conditions.
- For Great Lakes and Section 10 waters under the federal Rivers and Harbors Act of 1899, the length or size of the proposed structure is not greater than the length or size of similar structures in the vicinity and on the waterbody.
- For inland lakes and streams, the structure shall be of reasonable length to boatable water or at a length from the shoreline that is not greater than the length of similar structures in the vicinity and on the waterbody, whichever is the minimum necessary. The structure shall not exceed a width of 4 feet unless the applicant demonstrates their need for construction of a wider dock.

**50. Maintenance Dredging in USACE Navigation Channels**

Category applies to:  Part 301, Inland Lakes and Streams  
 Part 303, Wetlands Protection  
 Part 325, Great Lakes Submerged Lands



WATER

- Great Lakes
- Drinking Water
- Lakes & Streams**
- Aquatic Nuisance Control
- Water Quality Monitoring
- Lakes & Streams Protection**
- Marinas
- Related Links
- Wetlands
- MiWaters
- Permits
- Wastewater
- Water Management

DEQ / WATER / LAKES & STREAMS / LAKES & STREAMS PROTECTION

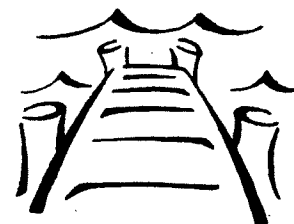
Contact: Bethany Matousek 517-284-5537

Part 301, Inland Lakes and Streams, of the Natural Resources and Environmental Protection Act, 1994, PA 451, as amended (Part 301), requires a permit from the Land and Water Management Division of the Department of Environmental Quality (DEQ) for certain construction activities on inland lakes and streams. The Inland Lakes and Streams Program is responsible for the protection of the natural resources and the public trust waters of the inland lakes and streams of the state. The program oversees activities including dredging, filling, constructing or placement of a structure on bottomlands, constructing or operating a marina, interfering with natural flow of water or connecting a ditch or canal to an inland lake or stream.

The following are typical projects regulated under Part 301. Please note: The following is only a partial list of the most common projects associated with inland lakes and streams. Other types of activities may also require permits.

**Shore Protection.** Because shore protection structures can have negative effects on natural resources and other shoreline properties, shore protection structures should only be installed when they are needed to address erosion problems and the type of shore protection used should be carefully considered. Because of these negative effects of vertical walls the DEQ recommends the use of natural shoreline treatments. New shoreline hardening should be avoided where alternate approaches such as plantings and natural stone can be used to protect property from erosion. The purpose and benefits of plantings/stone are to provide a natural transition between the open water and upland, while providing habitat.

**Permanent Docks or Permanent Boat Hoists.** Permanent docks or boat hoists which are left in year around require a permit. Seasonal docks and hoists do not require a permit if they are for private, non-commercial use by a landowner, do not unreasonable interfere with the use of the water by others, do not interfere with water flow and will not be placed in wetlands.



ME

## PIERS, DOCKS, AND FLOATS

### BENCHMARK

Minimize the discharge of pollutants from materials used for dock, pier, or float construction and maintenance.



### DOCKS AND PIERS AND FACILITY PLANNING

When maintaining, planning an expansion, or building new boatyard and marina structures, include water quality impacts in your decision making. Water quality and wildlife habitat can be affected by the "hardscape" at your facility when you:

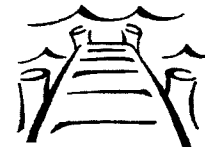
- Increasing or decreasing stormwater runoff.
- Change water and sediment movement.
- Change shoreline structure and wave movement.
- Cover or shade the bottom.
- Add pollutants through the type of products used.
- Increase or decrease the amount of dredging.



Well maintained dock  
Photo Credit: Bunnell Marine Consulting

**To minimize** the impact of changing or adding structures to your waterfront, implement the following practices.

- Minimize impervious areas. Doing so will reduce stormwater runoff.
- Avoid building structures that will impact water and sediment movement. Seawalls, causeways and filled piers have significant impacts on water movement and quality and sediment movement. It is in your best interest to have water moving through your facility constantly.



- Piling coatings including polyethylene (Perma Pile® or Forma Pile®, or Pilewrap®, for example) or composites can protect existing or new pilings from damage but do not provide additional strength.
- Alternative piling materials such as recycled plastic (Plastic Pilings®, Seapile®, Seatimber®) are often reinforced with fiberglass and are treated with ultraviolet inhibitors to increase durability are non-toxic in the marine environment and impervious to borers. In limited Maine testing, some alternative pilings did not appear to have the desired durability.
- Some tropical hardwoods (Ipe, Greenheart, Ironwoods®) are naturally resistant to borers and are very durable. Verify that the source of the wood is from sustainably forested timberlands and not from the native rainforest.
- Other alternative piling materials like concrete (Lancaster CP-40®) are also strong and very durable but may involve different connection configurations.
- If using CCA treated wood for submerged situations, ensure that it is southern yellow pine or douglas fir and that it meets the 2.5 CCA.
- Alternatives to pressure treated lumber for other submerged uses are being developed.

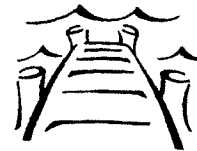
#### Topside Structures

There are many alternatives to CCA treated wood in topside applications. Pressure treated wood should be avoided except in ground-contact or high moisture applications (see submerged alternatives above). For siding, decking or handrails:

- Use recycled lumber alternatives (for example Trex®, Correctdeck®, TimberTech®, EWOOD®, Nexwood®). They are very low maintenance and durable but lack some of the structural strength of wood and normally require additional structural support. Recycled lumber may not be appropriate for drive-over or heavy load applications like commercial piers with regular vehicle traffic.
- Use untreated woods such as cedar and locust. Unfortunately, wood will need to be cleaned which is time consuming and many people resort to painting or staining it (refer to Painting section for guidance). New less toxic or non-toxic stains can maintain the woods good looks and increase rot resistance.
- Virgin PVC decking can be used, but by-products of its production are very toxic.



Pier work  
Photo Credit: Bunnell Marine Consulting



Generally, a permit is required if work disturbs soil within 75 feet of a protected natural resource. If you are unsure about whether or not an NRPA permit is required for your project, contact the appropriate DEP office and arrange for a staff visit.

Activities that may be regulated include:

- dredging, bulldozing, removing, or displacing soil, sand, vegetation, or other materials;
- draining or otherwise dewatering;
- filling; and
- constructing, repairing or altering any permanent structure (permanent structure is one placed or constructed in a fixed location for a period exceeding 7 months of the year).

For additional information: Bureau of Land and Water Quality, Maine Department of Environmental Protection, 17 State House Station, Augusta, ME 04333, phone # (207) 287-2111, Portland – 312 Canco Road, Portland, ME 04103 (207) 822-6300, Bangor – 106 Hogan Road, Bangor, ME 04401 (207) 491-4570.

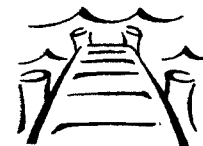
Mandatory Shoreland Zoning Act - 38 M.R.S.A. §435-449, C.M.R. Chapter 1000 and Local Ordinances

The Mandatory Shoreland Zoning Act requires all municipalities to establish zoning ordinances for land within 250 feet of great ponds, rivers, tidal areas, and freshwater and coastal wetlands. Within the shoreland zone, permits are required from the municipality (usually the planning board) for any new marina or expansion (including new structures).

Marinas are considered to be water-dependent uses and, therefore, in most cases are not subject to the same setback standards as those for non water-dependent uses. Most local ordinances have no minimum water setback standard for marina structures. However, boat storage is not considered a water dependent use.

Most shoreland zoning ordinances also regulate structures and activities which extend into and over the water. This would include boat ramps, piers, docks, and floats. Again, most ordinances have limited construction standards for piers, docks and floats.

For additional information: Bureau of Land and Water Quality, Maine Department of Environmental Protection, 17 State House Station, Augusta, ME 04333, phone # (207) 287-2111. Or your local Code Enforcement Officer



Section 413 prohibits discharging (spilling, leaking, dumping) of pollutants into state waters without a license from the Department of Environmental Protection. See page 3-33 or the Brightwork CD for more detailed regulatory information.

For additional information: Bureau of Land and Water Quality, Maine Department of Environmental Protection, 17 State House Station, Augusta, ME 04333, phone # (207) 287-2111.

Submerged Lands Law - 12 M.R.S. A. § Section 1861-1867

Lands located below the mean low water line of tidal waters, the natural low water line of great ponds, and the international boundary rivers are owned by the State and reserved in a public trust. Construction of private or commercial piers, floats, marinas, and other structures on or over these public submerged lands often requires a lease or easement from the Department of Conservation, Bureau of Parks and Lands.

For additional information: See page 3-62 or the Brightwork CD for more detailed regulatory information or, Bureau of Parks and Lands, Department of Conservation, 22 State House Station, Augusta, ME 04333, phone # (207) 287-3821.

Pollution and corruption of waters and lands of the State prohibited - 38 M.R.S.A §543

Section 543 prohibits the discharge of oil into or near the waters for the state. If a spill happens that causes a sheen on the waterbody, you have violated this section of the law. Call the Oil Spill report line at 800-482-0777.

For additional information: See page 3-52 or the Brightwork CD for more detailed regulatory information. Bureau of Remediation and Waste Management, Maine Department of Environmental Protection, 17 State House Station, Augusta, ME 04333, phone # (207) 287-2651

**A Homeowner's Guide To Environmental Laws Affecting Shorefront Property in Maine's Organized Towns Maine Department of Environmental Protection November 2000**

**Activities that are Exempt From the NRPA include:**

- Any activity that occurs more than 100 feet away from a lake, pond, river, stream, brook, freshwater wetland or tidal area.
- Any activity within 100 feet of a lake, pond, river, stream, brook, freshwater wetland or tidal water that does not disturb the soil or place fill. (Disturbing soil includes activities such as excavation for landscaping and construction of a structure. Placing fill includes activities such as driveway or road construction, and beach construction. Both types of activities are subject to the NRPA.)
- Any repair, maintenance or replacement of an existing culvert, provided any replacement culvert is not more than 25% longer than the 13 culvert being replaced and not longer than 75 feet. In addition, erosion must be controlled and fish passage cannot be blocked for the activity to be exempt.



State of Vermont  
**PERMIT AND LICENSE INFORMATION**

**LAKE ENCROACHMENT PERMITS**

**SUMMARY  
 DESCRIPTION  
 OF PERMIT**

Any project that involves the placement of material or a structure beyond the mean water level of lakes and ponds which are public waters, or which alters the land underlying such lakes and ponds, requires a permit. Lake Encroachment jurisdiction includes encroachments of docks and piers on the boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation, and encroachments of docks and piers on the Connecticut River impoundments and upstream to the first barrier to navigation on the boatable tributaries to those impoundments. Activities that may commonly require a permit include retaining walls or riprap to control shoreland erosion, commercial docks, large docks (including private docks that exceed the private dock exemption), docks involving concrete, dredging or filling activity, some repairs to existing encroachments, and replacement of existing encroachments.

The public status of a lake or pond is determined by the VT DEC. Public access is not a prerequisite. The mean water level of a lake or pond is defined as the mean summer water level elevation during the period between June 1 and September 15.

**EXAMPLE OF NON  
 REGULATED  
 ACTIVITY**

The following activities do not require a lake encroachment permit provided that navigation or boating is not unreasonably impeded:

- Wooden or metal docks (not constructed of concrete, masonry, earth or rock fill, sheet piling, bulkheading, or cribwork) for noncommercial use mounted on piles or floats as long as the combined horizontal distance of the proposed encroachment and any existing encroachments located within 100 feet thereof which are owned or controlled by the applicant do not exceed 50 feet and their aggregate surface areas do not exceed 500 square feet
- A water intake pipe not exceeding two inches in diameter
- Temporary extensions of existing structures added for a period not to exceed six months, if required by low water
- Ordinary repairs and maintenance to existing commercial and noncommercial structures
- Duck blinds, floats, rafts, and buoys

**INFORMATION  
 REQUIRED**

A completed application form is required, accompanied by the fee, a location map, site plan, cross-sections, photos, and construction drawings and specifications. The scope and detail of the information required depends on the specific nature of the project being proposed. Lake Encroachment Permitting should be contacted if there are questions regarding the level of detail required for a specific project.

**WEB ADDRESS**

[http://www.watershedmanagement.vt.gov/permits/html/pm\\_encroachment.htm](http://www.watershedmanagement.vt.gov/permits/html/pm_encroachment.htm)



boathouse, cable, pipeline, or similar structure beyond the shoreline as established by the mean water level of any lakes and ponds which are public waters under the jurisdiction of the board.

(4) "Navigable water" or "navigable waters" means those waters as defined in 10 V.S.A. § 1422(4).

(5) "Person" means any individual; partnership; company; corporation; association; joint venture; trust; municipality; the State of Vermont or any agency, department, or subdivision of the State, any federal agency, or any other legal or commercial entity.

(6) "Public good" means that which shall be for the greatest benefit of the people of the State of Vermont.

(7) "Public waters" means navigable waters excepting those waters in private ponds and private preserves as set forth in 10 V.S.A. chapter 119. (Added 1967, No. 308 (Adj. Sess.), § 2, eff. March 22, 1968; amended 1975, No. 162 (Adj. Sess.), § 2, eff. March 15, 1976; 1981, No. 222 (Adj. Sess.), § 41; 1987, No. 76, § 18; 2003, No. 115 (Adj. Sess.), § 111, eff. Jan. 31, 2005; 2011, No. 138 (Adj. Sess.), § 27, eff. May 14, 2012.)

#### **§ 403. Encroachment prohibited**

(a)(1) Except as provided in subsection (b) of this section, no person shall encroach on any of those waters and lands of lakes and ponds under the jurisdiction of the Department without first obtaining a permit under this chapter.

(2) Except as provided in subsection (b) of this section, no person shall encroach on the following waters with a dock or pier without first obtaining a permit under this chapter:

(A) boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation; and

(B) Connecticut River impoundments and boatable tributaries of such impoundments upstream to the first barrier to navigation.

(3) No permit shall be granted if the encroachment adversely affects the public good.

(b) A permit shall not be required for the following uses provided that navigation or boating is not unreasonably impeded:

(1) Wooden or metal docks for noncommercial use mounted on piles or floats provided that:

(A) the combined horizontal distance of the proposed encroachment and any existing encroachments located within 100 feet thereof which are owned or controlled by the applicant do not exceed 50 feet and their aggregate surface areas

MA

Certain activities are categorically prohibited in areas under Chapter 91 jurisdiction. Please see 310 CMR 9.32 or contact the Waterways Program ([dep.waterways@state.ma.us](mailto:dep.waterways@state.ma.us)).

### Proposed Activities and Authorization Requirements

For further information on which type of Chapter 91 authorization your proposed activity or project requires, please consult the following lists of examples:

Proposed Activity	Required Forms and Approvals
<p>If you propose to construct a small dock, pier, seawall, bulkhead or other small-scale structure that is an accessory to a residential use or serves as a non-commercial community docking facility, you may qualify for a simplified license if your structure meets the following requirements:</p> <ol style="list-style-type: none"><li>Structures existing prior to 1984 must be less than 600 square feet: or</li><li>All post-1984 structures, whether existing or new, must be less than 600 square feet and water dependent with no fill involved.</li></ol> <p>Exception</p> <p>If you propose to install a seasonal dock, float, mooring or raft that is bottom-anchored and not permanently pile-supported, it may be authorized by the local harbormaster or other authorized municipal official through an annual Section 10A permit.</p>	<p>Simplified Chapter 91 License (BRP WW06)</p>
<p>If you propose to extend the term of a Simplified License prior to its expiration in order to maintain your structure or activity authorized in the license</p>	<p>BRP WW12: Renewal of Simplified License</p>
<p>If you are not eligible for a Simplified License, and you propose to construct a structure or facility that requires direct access to or location in water, such as but not limited to:</p> <ul style="list-style-type: none"><li>Private docks</li><li>Piers and wharves</li><li>Marinas, boat basins, boatyards and other commercial or recreational boating activities</li><li>Commercial fishing and fish processing</li></ul>	<p>Chapter 91 Water Dependent License (BRP WW01)</p>

# Docks and Access in Public Waters



## Do I need a permit for my dock?\*

No permit is needed to install, construct, or reconstruct your dock on shoreline property you own if you comply with the following:

- A dock is a narrow platform or structure extending toward the water from the shoreline. A dock may provide access to moored watercraft or deeper water for swimming, fishing, and other recreation.
- The structure, other than a watercraft lift or watercraft canopy, is **not more than 8 feet wide** and is not combined with other similar structures so as to create a larger structure.
- The dock is no longer than needed to achieve its intended use, including reaching navigable water depth.
- The structure is not a hazard to navigation, health, or safety.
- The structure will allow the free flow of water beneath it.
- The structure is not used or intended as a marina.
- The structure is consistent with the guidelines of the local unit of government.
- Docks placed on rock-filled cribs are located only on waters where the bed is predominantly bedrock.

## Restrictions on docks and other structures

You may not place a dock or other structure in public waters if the structure:

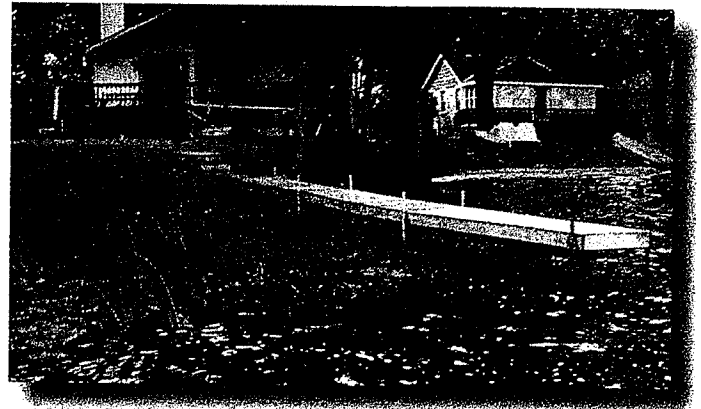
- obstructs navigation or creates a hazard;
- is detrimental to fish or wildlife habitat or is placed in a posted fish spawning area;
- is intended to be used for human habitation;
- includes walls, a roof, or sewage facilities; or
- is located on property you do not own or have rights to use.

If you have questions concerning the contents of this brochure, contact your DNR Area Hydrologist. See contact information on reverse side.

\*Based on Minnesota Rules, Chapter 6115.0210 and 6115.0211.

## What you should know about docks and other water access structures

Docks and watercraft lifts are commonly used access structures on Minnesota lakes and rivers. If you own waterfront property, a temporary structure that provides access to a lake or river is preferred to a permanent structure. Permanent structures are more likely to sustain ice damage, and a snow-covered structure over the ice poses a hazard to recreational vehicle users.



The blue box to the left lists installation guidelines for docks and access structures like boat lifts. These guidelines are intended to minimize impacts on water resources and shoreline habitat. If you follow these guidelines, no permit is needed from the Department of Natural Resources (DNR). Local units of government may have additional dock rules related to public safety and other local issues and should be contacted.

A shoreline owner may request a permit to install a dock wider than 8 feet. The permit applicant must show a specific need and show that the wider dock represents the minimal impact solution to that need. Docks serving single-family homes or residential planned unit developments generally will not need a dock wider than 8 feet. Public docks and mooring structures that are otherwise not serving as a marina may need to be a wider structure and will be reviewed individually. Docks that have no permit and that exceed the 8-foot-wide limit are subject to enforcement action, including a citation, an order to remove the dock, and fines for both the landowner and the dock installer.

Design and locate your dock and boat lift to avoid interfering with your neighbor's use of the water. Docks and boat lifts should be placed so that mooring and maneuvering of watercraft can normally be confined within the property lines if they were extended into the water.

## General Permit 2008-0401

A general permit was issued in 2008 to allow a modest platform at the lake end of a dock under certain conditions. This general permit allows a single, temporary platform up to 120 square feet measured separately from the access dock, or 170 square feet including the area of the adjacent access dock, if the following conditions exist: the access dock must be 5 feet or less in width and the dock must be on a lake with a shoreland classification of General Development or Recreational Development. See typical dock configurations on the next page. Refer to General Permit 2008-0401 at: [mndnr.gov/waters/forms.html#generalpermits](http://mndnr.gov/waters/forms.html#generalpermits) for more details.

# State Rule Changes Relating to Docks, Moorings, and Commercial Marinas

On October 14, 2002, revised rules governing the Department of Natural Resources' Public Waters Work Permit Program went into effect. These rule changes will affect how docks, moorings and commercial marinas are regulated by DNR Waters under this program. The former rule language that required riparian property owners to obtain a DNR permit for any mooring of five or more watercraft has been replaced. A public waters work permit will now only be required if either or both of the following apply:

- The structure is a marina (has commercial services).
- The structure is more than 8 feet in width.

The DNR's rules for docks and mooring facilities focus on allowing structures that are consistent with or allowed under local land use controls. The pertinent rule language governing these types of structures is found in Minnesota Rules, 6115.0210, Subp. 4.A.

The rule changes will place a greater reliance upon local zoning officials to implement and enforce land use controls that address the increased demand for or interest in watercraft mooring. Existing provisions in Minnesota Statutes, Sections 86B.205 and 459.20 provide the authority to counties and cities to regulate the construction of



4646 Dakota Street S.E.  
Prior Lake, MN 55372-1714

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## **POLICY GUIDING THE PLACEMENT OF PERSONAL DOCKS IN THE CITY OF PRIOR LAKE Adopted March 7, 2008**

The purpose of this policy is intended to clarify language published in DNR documents, whether written or electronic, that is difficult to understand and at times confusing. The City is adopting this policy to guide the size, location and use of single docks or mooring areas located on individual riparian lots on Prior Lake and on the portion of Spring Lake within the Prior Lake city limits. Multiple docks, such as homeowner's association docks, and commercial docks or marinas are regulated under the City of Prior Lake Zoning Ordinance and the Minnesota Department of Natural Resources rules. Multiple and commercial docks require permits from the City, the DNR, or both entities before they can be established.

In adopting this policy, the city is not intending to assume any responsibility to resolve disputes between neighbors.

### **RIPARIAN RIGHTS / GOOD NEIGHBOR**

Under most circumstances, lakefront properties have a right to reasonable access to the water, including placing modest docks and watercraft lifts in the water to provide that access. These are referred to as *riparian rights*, using a legal term for shoreline. Access can only be limited for important public reasons, such as safety, navigability, etc. All riparian properties share the right to a reasonable dock space. Access to the water may not be limited or impaired by the placement of docks and lifts. This policy provides guidance to help neighbors share the shoreline and maintain the right to a reasonable dock area.

### **DEFINITIONS**

**Dock:** A narrow platform or structure, whether temporary or permanent, extending toward the water from the shoreline, whether floating or not, including all "Ls," "Ts" or posts which may be a part thereof, whether affixed or adjacent to the principal structure. A dock may provide access to moored watercraft or seaplanes or to deeper water for swimming, fishing, or other water-oriented recreational activities. (*Minnesota Rules 6115.0170, subp. 7*)

**Single Dock:** An authorized dock which abuts a single family residential site, for the storage of six or fewer restricted watercraft.

In all cases, these rules only offer guidance. The absolute rule is that all riparian lot owners have a right to access the water and a reasonable use of the shoreline, including placing docks and watercraft lifts to gain that access. These rights must be respected by all riparian lot owners when establishing access to the water. This policy establishes limits and rules for size, setbacks, and uses of dock structures that are in compliance with DNR rules, and respect the rights of riparian property owners.

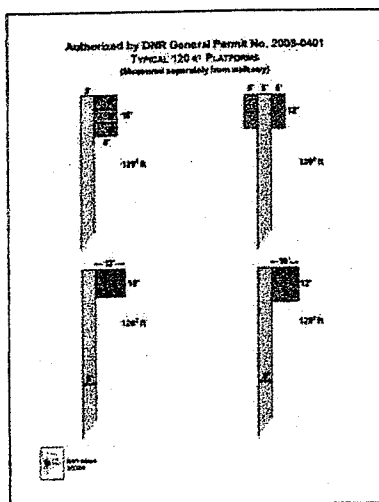
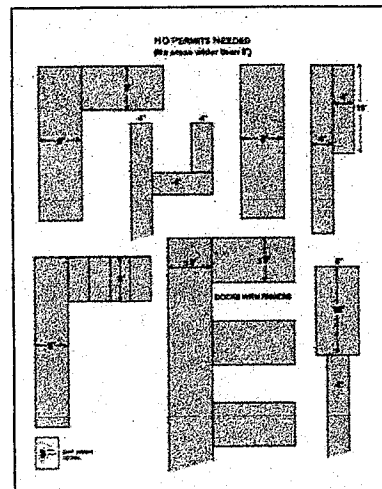
No dock, mooring or other structure, nor the watercraft using the structure, shall be so located as to:

- (1) Obstruct navigable waters;
- (2) Obstruct reasonable use or access to any other dock, mooring or other structure authorized under this ordinance;
- (3) Present a potential safety hazard;
- (4) Unreasonably or unnecessarily encroaches on other docks, or
- (5) Comes within ten feet of any other structure.

The following are DNR required limitations for the size of single docks. Any dock exceeding the following limitations requires a permit from the DNR.

- The structure, other than a watercraft lift or watercraft canopy, is not more than 8 feet wide and is not combined with other similar structures so as to create a larger structure.
- The number of mooring slips on the dock is six or less.

Docks exceeding these guidelines require a permit from the Minnesota Department of Natural Resources.



In January, 2008, the Minnesota Department of Natural Resources issued General Permit No. 2008-0401, authorizing larger platforms, not to exceed 120 square feet, as shown on the drawing to the left. This permit expires November 20, 2012, or when new regulations are adopted.



# FACT SHEET

Office of Water Resources / Fall 2007

WETLANDS # 13

## PERMITTING FOR DOCKS AND FLOATS

### IS A WETLAND PERMIT REQUIRED TO BUILD A DOCK OR FLOAT?

Yes, all docks and floats proposed on any waterbody require a permit from the Department of Environmental Management (DEM), or from the Coastal Resource Management Council (CRMC). If the dock is proposed either on salt water or within *freshwater wetlands located within the vicinity of the coast* (refer to *Rule 3.02*), CRMC is the permitting agency. Docks or floats on all other freshwater waterbodies, including lakes, ponds, or rivers, must receive a Wetland Permit from DEM. This fact sheet addresses DEM requirements.

**Note:** The term "existing," as used throughout this fact sheet, is defined as a condition that occurred naturally and is still present, that was present at the enactment of the Freshwater Wetlands Act or its applicable amendments and has continually remained the same, or that was subsequently approved (see *Rule 4.00*).

### WHAT IS REQUIRED TO OBTAIN A DOCK OR FLOAT PERMIT FROM DEM?

In order to obtain a permit for a dock, property owners must submit a *Request for Preliminary Determination*. The following items are required for this application:

1. A completed application form (available online or from DEM).
2. The correct fee (see *Rule 7.11D(7)*).
  - \$100.00 for individual docks or floats.
  - \$300.00 for multiple docks or floats, or individual boat launches.
3. A brief report that describes the project and steps taken to avoid or minimize wetland impacts in design of the project (*Rule 9.02D*).
4. Four copies of site plans.
  - Site plans must clearly depict existing conditions on the property (property lines, edge of waterbody, and any other wetlands, existing buildings, yards, or accessory structures).
  - Plans must show all proposed work including the dock and any work associated with the dock, such as clearing for a path or construction of a walkway to access the dock.
  - **Four** copies are required for a dock or float application because the DEM review is combined with a review by the U.S. Army Corps of Engineers under the Programmatic General Permit review process.
  - Please refer to *Rule 7.03* of the *Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act* for specific site plan requirements.

### ARE THERE ANY PERMIT EXEMPTIONS?

Yes, one mooring or anchorage (not to exceed a weight of 100 pounds) per waterfront lot for a single boat is allowed without a freshwater wetlands permit, per *Rule 6.01* and *6.16*. Additionally, an existing dock may be repaired if it is not enlarged or extended, per *Rule 6.01* and *6.03G*.

## Docks and structures along the shore

### Is a DNR permit required to install a dock or swimming platform in a lake?

A DNR public waters work permit (application available under **DNR Division of Waters forms**) is not required to construct, reconstruct or install docks, floating or temporary structures, watercraft lifts and mooring facilities if the following conditions are satisfied:

- Will not be an obstruction to navigation or create safety hazard.
- Will not be detrimental to significant fish and wildlife habitat.
- Site is not a posted fish spawning area.
- Does not have a roof, walls or sewage facilities and is not used or intended to be used for human habitation or as a boat storage structure.
- Allows for the free flow of water beneath it.
- Is consistent with or allowed under local government zoning authority controls.
- Other than a seasonal watercraft lift or canopy, is not more than 8 feet in width, and is not combined with other similar structures so as to create a larger structure.
- Docks placed on rock filled cribs are located only on waters where the bed is incapable of accepting pilings.

Note: Temporary structures which do not extend from shore, such as: swim rafts, slalom courses, ski jumps or buoys of any kind, may not be placed in the waters of the state between sunset and sunrise without a permit from the county sheriff. Those structures not left in the water overnight are still required to be placed so that they do not create a hazard on the water body or obstruct navigation. Contact the water patrol unit of your county sheriff's department for permit information. Call the DNR Boat and Water Safety Section at 651-259-5400 for additional information.

Sometimes disputes regarding the installation of docks and other structures in front of adjacent properties occur. Such disputes are best settled by first discussing your concerns with your neighbor. If your neighbor is uncooperative, you may have to contact an attorney about the legalities of your neighbor's actions.

See the information sheet titled **Docks and Access in Public Waters** under **DNR Waters Publications**.

### **Back to Do I Need a Permit?**

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## Dredging

### Is a DNR permit required to dredge out my boat harbor that is connected to the lake?

A DNR public waters work permit (application available under **DNR Division of Waters forms**) is required to dredge a proposed or existing harbor by either mechanical or hydraulic methods when the excavation is intended for the mooring of watercraft. Maintenance dredging of an existing harbor may already be permitted if a DNR permit was previously issued to the same riparian landowner proposing the dredging and the permit contains a maintenance provision. The permittee would be limited to dredging an area to the same dimensions as originally permitted. If the landowner is not the same, a new DNR permit would be required. A permittee is required to notify the DNR prior to conducting any maintenance excavation activity.



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NY-CRR

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK  
TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
CHAPTER X. DIVISION OF WATER RESOURCES  
SUBCHAPTER A. GENERAL  
ARTICLE 1. MISCELLANEOUS RULES  
PART 661. TIDAL WETLANDS—LAND USE REGULATIONS

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661.5 Use guidelines.

- (a)
- (1) Any type of use designated in this section as a *use not requiring a permit* for the type of area involved is not subject to the permit requirements of this Part.
  - (2) Any type of use designated in this section as a *generally compatible use* for the type of area involved is generally compatible with that type of area and with the preservation, protection and enhancement of the present and potential value of tidal wetlands if undertaken in that area. The compatibility of a particular use depends on the particular location, design and probable impact of the proposed use. Generally compatible uses are subject to the permit requirements of this Part.
  - (3) Any type of use designated in this section as a *presumptively incompatible use* for the type of area involved shall be presumed not to be compatible with the type of area involved or with the preservation, protection or enhancement of the present and potential values of tidal wetlands if undertaken in that area. Any such use is subject to the permit requirements of this Part.
  - (4) Any type of use designated in this section as an *incompatible use* is not compatible with the type of area involved or with the preservation, protection or enhancement of the present and potential values of tidal wetlands if undertaken in that area. Any such use is subject to the permit requirements of this Part.
    - (i) Nothing in this subdivision shall be deemed to remove any burden of proof imposed on an applicant by section 661.9 of this Part.

(b) The classification of uses in coastal fresh marshes, intertidal marshes, coastal shoals, bars and flats, high marshes or salt meadows, littoral zones, and adjacent areas, shall be as respectively indicated in the following chart:

**ABBREVIATIONS**

*Area Categories Use Categories*

FM—Coastal Fresh Marsh NPN—Uses Not Requiring a Permit  
 IM—Intertidal Marsh GCp—Generally Compatible Use—Permit Required  
 SM—Coastal Shoals, Bars and Flats Plp—Presumptively Incompatible Use—Permit Required  
 LZ—Littoral Zone I—Incompatible Use  
 HM—High Marsh or Salt Meadow P—Permit Required  
 AA—Adjacent Area NA—Not Applicable

	Uses	Area and Use Categories		
		FM, IM, HM	SM, LZ	AA
1.	The continuance of lawfully existing uses (including but not limited to residential, commercial, industrial, agricultural, recreational and public use) and the continuance of all activities normally and directly associated with any such use, where such continuance does not involve expansion or significant alteration of the existing use.	NPN	NPN	NPN
2.	Activities of the department of health or of units of local government with respect to public health, when conducted in conformance with section 25-0401 of the Act.	NPN	NPN	NPN
3.	Activities subject to the review jurisdiction of the public service commission or the state board on electric generation siting and the environment under article seven or article eight of the public service law, respectively. The standards and restrictions of this Part will be applied by said bodies in determining whether to issue a certificate of environmental compatibility and public need under such articles.	NPN	NPN	NPN
4.	Establishing scenic, historic, wildlife and scientific preserves, without any material			

36.	Manual harvesting of salt hay.	NPN	NA	NA
37.	Harvesting of salt hay by mechanical equipment.	GCp	NA	NA
38.	Substantial modification of existing agricultural ditches.	GCp	GCp	GCp
39.	New agricultural activities not covered by items 35-38.	Plp	Plp	GCp
40.	Connection of electric, gas, sewer, water, telephone or other utilities from an existing distribution utility facility to an existing structure.	GCp	GCp	NPN
41.	Installation of underground electric, sewer, water, or other utilities where such installation will involve restoration of existing ground elevation, other than activities covered by item 40.	GCp	GCp	GCp
42.	Installation of electric, gas, sewer, water or other utilities, other than activities covered by items 40 or 41.	Plp	Plp	GCp
43.	Installation of a dry well, retention basin, filter, open swale or pond.	Plp	Plp	GCp
44.	New discharge of any pollutant requiring a SPDES permit pursuant to the environmental conservation law and complying with the requirements for the issuance of such a permit.	P	P	P
45.	Installation of a sewage disposal septic tank, cesspool, leach field or seepage pit and discharge of any pollutant into such facilities not requiring a SPDES permit pursuant to article 17 of the environmental conservation law.	Plp	Plp	GCp
46.	Construction of single family dwellings and multiple family dwellings.	Plp	Plp	GCp
47.	Construction of commercial and industrial use facilities requiring water access and public and semi-public buildings requiring water access; and undertaking commercial and industrial use activities requiring water access.	Plp	Plp	GCp
48.	Construction of commercial and industrial use facilities not requiring water access and public or semi-public buildings not requiring water access; and undertaking commercial and industrial use activities not requiring water access.	Plp	Plp	Plp
49.	Construction of accessory structures or facilities for any use listed in items 46 and 47, other than accessory structures or facilities covered by item 50 or covered specifically in this list.	Plp	Plp	GCp
50.	Construction of accessory structures or facilities for existing residential structures where such accessory structures or facilities are and will continue to be in full compliance with the development restrictions of this Part.	NA	NA	NPN
51.	Construction of accessory structure or facilities for any use listed in item 48.	Plp	Plp	Plp
52.	Disposal of any chemical, petrochemical or other toxic material, including any pesticide.	I	I	I
53.	The use or application of any chemical, petrochemical or other toxic material, including any pesticide, where not authorized by law.	I	I	I
54.	The storage of any chemical, petrochemical or other toxic material, including any pesticide, for wholesale purposes or for purposes of distribution to persons other than the ultimate user of such materials.	I	I	Plp
55.	The use or application of any chemical, petrochemical or other toxic material, including any pesticide, where otherwise authorized by law, or the storage of any such material for purposes other than wholesaling or distribution to persons other than the ultimate users of such materials.	NPN	NPN	NPN
56.	Disposal of solid wastes as defined in section 27-0501 of the environmental conservation law.	I	I	Plp
57.	Any type of regulated activity not specifically listed in this chart and any subdivision of land.	P	P	P

**(c) Formerly connected tidal wetlands.**

For formerly connected tidal wetlands, uses not requiring a permit, generally compatible uses, presumptively incompatible uses and incompatible uses shall be deemed to be the same respectively as the type of wetland which a particular formerly connected tidal wetland most closely resembles.

**(d) Uses not specifically listed in subdivision (b).**

For any regulated activity covered by item 57 in subdivision (b) of this section, the regional permit administrator shall on a case-by-case basis classify such cases as GCp, Plp, or I under subdivision (b) of this section, utilizing the listed items as a guideline for such classification.

6 CRR-NY 661.5  
Current through February 29, 2016

# About AppraisersForum.com and Contact Information

About AppraisersForum.com and Contact Information. AppraisersForum.com is the premiere online community for real estate appraisers.

AppraisersForum.com is an internet bulletin board dedicated to the discussion of real estate appraisal. Although the majority of our registered members are real estate appraisers, it is not required that you be an appraiser to participate. We have members from other sections of the real estate industry, banking and finance, government, as well as the members of the general public who are interested in real estate appraisal. So feel free to participate!

This site is independent and not owned by any appraisal firm, appraisal organization, appraisal management company, appraisal software company, relocation company, or mortgage lender.

## Boat docks as personal property

Discussion in 'General Appraisal Discussion' started by ETex2, Apr 28, 2008.

There is a lake in Texas where a District Court judge ruled that boat houses and docks are personal property and not real property. This is due to the water authority's atypical procedure in giving only temporary permits to use these docks (built by the adjoining property owners) on the water authority's property. Appeals court affirmed decision. There are no leases, only annual permits which are easily revokable. Land is all owned by the water authority; only adjacent property owners may build.

Appraisers, mortgage companies, and local appraisal district has always treated these lakefront docks as real property. Should appraisers and mortgage companies be made aware that these improvements are not considered to be real property by the courts? This might be a real nightmare for the appraisal district since personal property (other than business personal property) is not taxable and they have always been taxed as real property.



## 2014 DRA EQUALIZATION PROPERTY CODES

PROPERTY CODES	PROPERTY TYPES	CONDENSED NAME	CLASS	CLASSIFICATION CODES
<b>Improved Residential Land &amp; Building or Building Only Codes</b>				
11	Single Family Home	SFHM	R	GC1
12	Multi-Family 2-4 Units	MFHM	R	GC1
13	Apartment Building 5+ Units	APT5	C	GC1
14	Single Residential Condominium Unit - Even if the unit is part of multi unit block - Condex	RC1U	R	GC1
15	Residential Condominium 2-4 Unit Building - purchase of multiple units	RC24	R	GC1
16	Residential Condominium 5+ Unit Building - purchase of multiple units	RC5+	C	GC1
17	Manufactured Housing with Land (see definition in Glossary)	MHWL	R	GC1
18	Manufactured Housing without Land (see definition in Glossary) RSA 674:31 (metal frame, permanent chassis)	MHNL	R	GC1
19	Unclassified/Unknown Improved Residential - Land/Camper/Camp/Garage outldg	UIIR	U	GC1
20	Building Only - Residential (Land Leased Properties) RSA 674:31-a (Includes pre-site built housing)	RSBO	R	GC1
<b>Land Only Codes</b>				
22	Residential Land	RESL	R	GC3
23	Commercial Land	COML	C	GC3
24	Industrial Land	INDL	I	GC3
25	Mixed Use Residential/Commercial Land	RECL	C	GC3
26	Mixed Use Commercial/Industrial Land	CMIL	C	GC3
27	Unclassified/Unknown Land	UUKL	U	GC3
<b>Non-Residential Land &amp; Bldg Codes</b>				
33	Commercial Land & Building	CMLB	C	GC2
34	Industrial Land & Building	INLB	I	GC2
35	Mixed Use Residential/Commercial Land & Building	RCLB	C	GC2
36	Mixed Use Commercial/Industrial Land & Building	CILB	C	GC2
37	Unclassified/Unknown Non-Residential Land & Building	UULB	U	GC2
38	Building Only - Commercial/Non-Residential	NRBO	C	GC2
<b>Non-Residential Condo Codes</b>				
44	Commercial Condominium	COMC	C	GC2
45	Industrial Condominium - Airport Hangers	INDC	I	GC2
46	Unclassified/Unknown Non-Residential Condominium	UUNC	U	GC2
<b>Other Codes</b>				
55	Boat slip Only - Dockominium	BSLP	R	GC4
56	Condominiumized Land Site - Campgrounds	COLS	R	GC4
57	Unclassified/Unknown Other - Easements	JUOT	U	GC4
58	Garage/Storage Unit - Condo garage spaces, parking	STUT	R	GC4
59	Dry Berth	DBTH	R	GC4
<b>CODE</b>	<b>MODIFIER CODES</b>	<b>CONDENSED NAME</b>		
70	Waterfront	WTRF		
71	Water Access	WTRA		
72	Island	ISLD		
73	Waterfront Influence	WTRI		
74	View +	VEW+		
75	View -	VEW-		
<b>SPECIAL CODES</b>				

Special Codes are available at the request of assessing officials for unique property types or neighborhoods. See instructions on the back of this form.

**\*CLASS:** R = RESIDENTIAL  
 C = COMMERCIAL  
 I = INDUSTRIAL  
 U = UNKNOWN/UNCLASSIFIED

**\*\* CLASSIFICATION CODES (Assigned by DRA):**

GC1 = IMPROVED RESIDENTIAL  
 GC2 = IMPROVED NON-RESIDENTIAL  
 GC3 = UNIMPROVED  
 GC4 = MISCELLANEOUS

The following is a Synopsis of the LMCD dock and boat storage rules for residential properties.

## Dock Use Area

LMCD ordinances provide for many of the Lake Minnetonka rules and regulations, which can be found on the LMCD's website at [www.lmcd.org](http://www.lmcd.org), under "Rules and Regulations." Chapter 2 outlines the rules governing the area and number of which docks and boat storage are allowed. A brief description of those rules is provided below. Additionally, the LMCD encourages you to know local and state laws, as well.

### DUA Length (measured from the 929.4 NGVD)

The length of a dock use area is equal to the property shoreline frontage width, with a *maximum* of 100 foot dock length.

Sites in existence on February 5, 1970 with a lake frontage of 40-60 feet may have a dock extending up to 60 feet into the lake.

Sites in existence on February 5, 1970 with lake frontage of 40 feet or less may extend to reach a water depth of 4 feet (not to extend beyond 60 feet).

### DUA Width portion within setbacks measured from extended side property lines into the lake.

For that portion of the length or authorized dock use area which extends from the shore:

0 - 50 feet	10 foot setback
50 - 100 feet	15 foot setback

**Canopies require a 20-foot setback from the extended property line**

- ❖ Side opening slip (Boat parked parallel to shore) setback shall be at least equal to the slip depth (not less than 20 feet).
- ❖ Lots with 50 feet or less of shoreline in existence on February 2, 1970, qualify for a 5 foot setback, providing it in no way impairs access to neighboring docks.

### Dock Structure

- ❖ May exceed 8 feet, excluding posts, in either its length or width, but not both.
  - ❖ Permanent docks require a permit from the LMCD.

# Watercraft Density Restrictions

## What is a restricted watercraft?

A restricted watercraft is defined as any boat or vessel for use on or stored on the public waters on the lake except for unrestricted watercraft. An unrestricted watercraft is defined as a boat or vessel that is:

- 1) 16' or less in length and has no motor; or
- 2) 16' or less in length and has a motor of 10 horsepower or less, as rated by the manufacturer at the time of manufacturer, whether or not the motor is operational; or
- 3) 20' or less in length and has no motor, and that is propelled solely by human power.

Most personal watercraft (Jet Ski, Wave Runner, or similar) would qualify as a restricted watercraft (due to horsepower). A sailboat longer than 16' (motorized or un-motorized) would also qualify as a restricted watercraft.

## How many boats can I store?

LMCD ordinances regulate the number of restricted watercraft that may be stored within a Dock Use Area at a residential site. In summary, Section 2.02 provides for:

- Subd. 1: The General Rule is one restricted watercraft for each 50' (1:50') of continuous shoreline; without reference to the owners being residents of the site; or
- Subd. 2: Unless a greater number is allowed by the 1:50' General Rule, up to two restricted watercraft may be moored or docked at any dock or mooring facility on a residential site in existence on August 30, 1978; without regard to the owners being residents of the site; or
- Subd. 3 (a-c): Unless a greater number is allowed by the 1:50' General Rule, up to four restricted watercraft may be moored or docked at a dock or mooring area at a site, provided a number of conditions are met. One of these conditions includes all restricted watercraft must be owned by and registered to persons who live in the one residential structure on the site.
- Subd. 4: Docks and mooring areas lawfully in existence on 5/3/78 may continue provided the number of restricted watercraft does not exceed the number moored or docked on 5/3/78. Restrictions apply, one of which is to secure a non-conforming use permit.

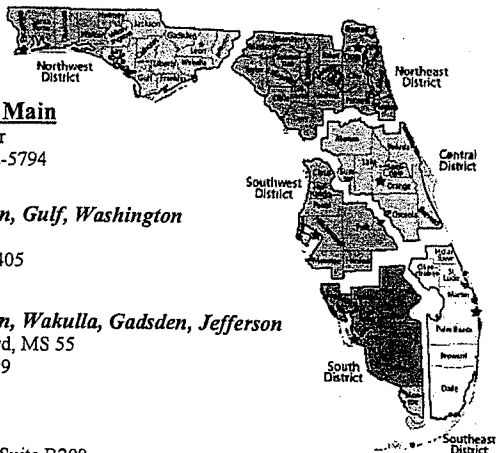
In order to store five or more restricted watercraft, a multiple dock license would need to be approved by the LMCD Board of Directors (Code Section 2.03), based on a minimum of 226' of shoreline.

**Communication to your local municipality on your boat storage needs is highly recommended as the most restrictive Ordinance applies.**





For additional information or to schedule a pre-application meeting, please contact your local DEP district office at one of the following locations:



**Northwest District: Main**

160 Governmental Center  
Pensacola, Florida 32502-5794  
(850) 595-8300

**Bay, Calhoun, Jackson, Gulf, Washington**

2353 Jenks Avenue  
Panama City, Florida 32405  
(850) 872-4375

**Leon, Liberty, Franklin, Wakulla, Gadsden, Jefferson**

3900 Commonwealth Blvd, MS 55  
Tallahassee, Florida 32399  
(850)245-2984

**Northeast District:**

7825 Baymeadows Way, Suite B200  
Jacksonville, Florida 32256-7577  
(904) 256-1700

**Central District:**

3319 Maguire Blvd, Suite 232  
Orlando, Florida 32803  
(407) 897-4100

**Southeast District: Main**

**Dade, Broward, Palm Beach, Martin**  
400 North Congress Ave., Suite 200  
West Palm Beach, Florida 33401  
(561) 681-6600

**Indian River, St. Lucie, Okeechobee**

337 N. U.S. Hwy 1, Suite 307  
Ft. Pierce, Florida 34952  
(772) 467-5500

**South District: Main**

2295 Victoria Avenue, Suite 364  
Fort Myers, Florida 33901  
(239) 289-7070

**Monroe**

2796 Overseas Highway, Suite 221  
Marathon, FL 33050  
(305) 289-7070

**Southwest District:**

13051 N. Telecom Parkway  
Temple Terrace, FL  
(813) 470-5700

Thank you for helping to preserve Florida's environment. (9/25/2014)

**Know what you need *before* you build...**



**SINGLE-FAMILY DOCK CONSTRUCTION**

The construction of certain docks is regulated by DEP and the Water Management Districts (WMD) to protect Florida's fragile waterways. Also, the State owns the submerged lands on which many docks are built. Therefore, prior to construction, you may need to obtain a permit from DEP to build your dock as well as written authorization from DEP to use the State's submerged lands.

Proposed docks that are within or that cross conservation easements always need to be reviewed by DEP or the applicable Water Management District for compliance with the conservation easement before construction. However, some (exempt) docks have minimal environmental impacts because of their size and location and do not require written authorization. This pamphlet will explain the authorization requirements regarding exemptions, and letters of consent. The pamphlet will also mention ways to design your dock so the review process may be shortened.

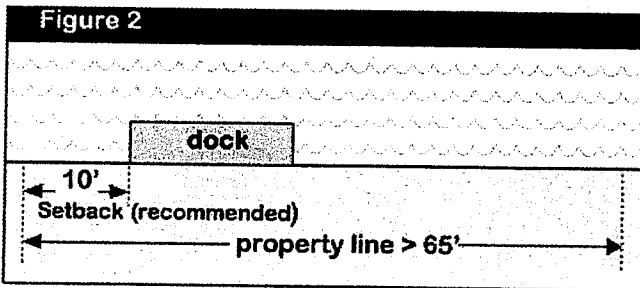
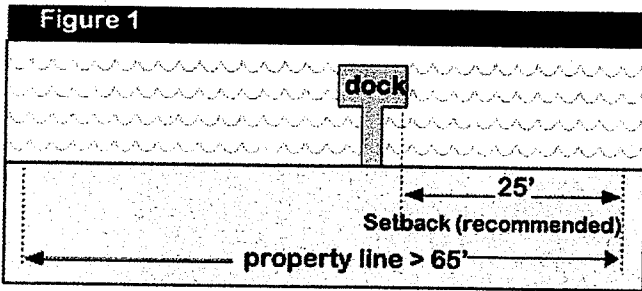
**Docks that do not need a permit or other written authorization from DEP:**

1. A single-family dock in an artificially created waterway where:
  - the construction will not violate water quality standards
  - the dock will not impede navigation
  - the dock will not affect flood control
  - 1,000 square feet or less
2. Repairing or replacing existing docks or mooring piles that are:
  - not part of an aquatic preserve or manatee sanctuary
  - still functional or only recently damaged by a storm or accident
  - in the same location, configuration, and dimensions as the existing structure.
3. A single-family dock that meets the following criteria:
  - not part of an aquatic preserve or manatee sanctuary;
  - 500 square feet or less if located in "Outstanding Florida Waters"
  - 1,000 square feet or less if not located in "Outstanding Florida Waters"
    - this is the total square footage of the structure over surface waters and wetlands, includes roof overhang on covered slips.

(Continued)



- structures built on the dock such as gazebos and boat shelters are not enclosed with walls and doors, are not used as living quarters or for the storage of materials other than recreational supplies
  - the total area calculation for the dock includes any portions of the roof that hangs over the water beyond the dock platform
- used only for recreational, noncommercial activities
- there is no dredging or filling except for that necessary to install pilings
- the dock and pilings do not impede the flow of water or navigation
- only one dock per lot and no more than one dock per single-family home
- structure does not unreasonably interfere with riparian rights, includes boatlifts associated with the dock
  - recommended dock setback of at least 25 feet from the property lines (see Figure 1)
  - recommended marginal dock setback of at least 10 feet from the property lines (see Figure 2)
  - if the property has a shoreline length less than 65 feet, it is recommended that the dock be centered between property lines



#### Docks that do not need a permit but require a letter of consent from DEP:

If your proposed dock construction meets all the conditions described in sections 2 or 3 (above) and it is located within an aquatic preserve or manatee sanctuary, then it still will not need a permit, but it will require written authorization from the Department for the use of state owned lands. In order to qualify for this *letter of consent*, your application to DEP must show that the dock will meet all the following requirements:

- the structure has a minimum setback of 25 feet from the property lines or 10 foot setback for marginal structures,
  - if your shoreline is less than 65 feet in length, then the structure should be centered
- the dock only extends far enough from the mean/ordinary high water to reach a maximum water depth of 4 feet at mean or ordinary low water
  - if there is a bulkhead along the shoreline with a water depth of 4 feet at mean or ordinary low water, the dock does not extend more than 25 feet
- the dock does not extend beyond 20% of the width of the waterbody, or over 500 feet, whichever is less
- the access walkway of the dock is no more than 4 feet wide
- the terminal platform is no larger than 160 square feet
- if over seagrasses, boards used to construct the surface of the dock are no more than 8 inches wide and have at least 1/2 inch spacing
- any part of the dock located over seagrasses is elevated 5 feet above the mean or ordinary high water line
- in areas where submerged resources (e.g., seagrass or coral) exist, there is at least 1 foot of clearance (at mean or ordinary low water) between the deepest part of the proposed boat or motor and the top of any submerged resources in the areas that will be used for boat mooring, turning, or access to deep water

#### Docks that need a permit and require a lease, easement, or some other form of submerged lands authorization from DEP:

If your dock does not meet the criteria above, you must apply for a permit and any needed sovereign submerged land authorization from the DEP. Below are some

##### *Construction tips to assist with your application:*

- ✓ Control turbidity during construction to avoid water quality violations.
- ✓ Dry storage is good for your boat and the environment. Consider adding a boat hoist to your dock.
- ✓ Some marine construction materials use toxic substances as preservatives. You can generally find alternative construction materials that are less toxic to the environment. Check into the availability and long-term cost effectiveness of concrete, recycled plastic, or flexible PVC-sleeved pilings.
- ✓ Elevating your dock and using grating instead of wood planking will allow more light to penetrate to submerged vegetation and help maintain the marine environment.





## The USGS Water Science School

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### How much of your state is wet?



What percent of the area of the United States do you think is water?

/

Data is for the 50 states and the District of Columbia. Source U.S. Census Bureau: [Geography](#)

What percent of your state do you think is water covered? Which state has the highest percentage of water area? Is the West really "drier" than the rest of the country? The table below shows the total land area and water area of each state.

These water area data represent the sum of inland and coastal water and the Great Lakes. The source of this data is the U.S. Census Bureau, [Geography: State Area Measurements, 2010](#).

Land area and water area of each state

State	Total area square miles	Total area square kilometers	Land area square miles	Land area square kilometers	Water area square miles	Water area square kilometers	Percent area, water
Alabama	52,420	135,767	50,645	131,171	1,775	4,597	3.4%
Alaska	665,384	1,723,337	570,641	1,477,953	94,743	245,383	14.2%
Arizona	113,990	295,234	113,594	294,207	396	1,026	0.3 %
Arkansas	53,179	137,732	52,035	134,771	1,143	2,961	2.1%
California	163,695	423,967	155,779	403,466	7,916	20,501	4.8%
Colorado	104,094	269,601	103,642	268,431	452	1,170	0.4%
Connecticut	5,543	14,357	4,842	12,542	701	1,816	12.6%
Delaware	2,489	6,446	1,949	5,047	540	1,399	21.7%
District of Columbia	68	177	61	158	7	19	10.3%
Florida	65,758	170,312	53,625	138,887	12,133	31,424	18.5%
Georgia	59,425	153,910	57,513	148,959	1,912	4,951	3.2%
Hawaii	10,932	28,313	6,423	16,635	4,509	11,678	41.2%
Idaho	83,569	216,443	82,643	214,045	926	2,398	1.1%
Illinois	57,914	149,995	55,519	143,793	2,395	6,202	4.1%
Indiana	36,420	94,326	35,826	92,789	593	1,537	1.6%
Iowa	56,273	145,746	55,857	144,669	416	1,077	0.7%
Kansas	82,278	213,100	81,759	211,754	520	1,346	0.6%
Kentucky	40,408	104,656	39,486	102,269	921	2,387	2.3%
Louisiana	52,378	135,659	43,204	111,898	9,174	23,761	17.5%
Maine	35,380	91,633	30,843	79,883	4,537	11,750	12.8%
Maryland	12,406	32,131	9,707	25,142	2,699	6,990	21.8%
Massachusetts	10,554	27,336	7,800	20,202	2,754	7,134	26.1

								%
Michigan	96,714	250,487	56,539	146,435	40,175	104,052		41.5%
Minnesota	86,936	225,163	79,627	206,232	7,309	18,930		8.4%
Mississippi	48,432	125,438	46,923	121,531	1,509	3,907		3.1%
Missouri	69,707	180,540	68,742	178,040	965	2,501		1.4%
Montana	147,040	380,831	145,546	376,962	1,494	3,869		1.0%
Nebraska	77,348	200,330	76,824	198,974	524	1,356		0.7%
Nevada	110,572	286,380	109,781	284,332	791	2,048		0.7%
New Hampshire	9,349	24,214	8,953	23,187	397	1,027		4.2%
New Jersey	8,723	22,591	7,354	19,047	1,368	3,544		15.7%
New Mexico	121,590	314,917	121,298	314,161	292	757		0.2%
New York	54,555	141,297	47,126	122,057	7,429	19,240		13.6%
North Carolina	53,819	139,391	48,618	125,920	5,201	13,471		9.7%
North Dakota	70,698	183,108	69,001	178,711	1,698	4,397		2.4%
Ohio	44,826	116,098	40,861	105,829	3,965	10,269		8.8%
Oklahoma	69,899	181,037	68,595	177,660	1,304	3,377		1.9%
Oregon	98,379	254,799	95,988	248,608	2,391	6,191		2.4%
Pennsylvania	46,054	119,280	44,743	115,883	1,312	3,397		2.8%
Rhode Island	1,545	4,001	1,034	2,678	511	1,324		33.1%
South Carolina	32,020	82,933	30,061	77,857	1,960	5,076		6.1%
South Dakota	77,116	199,729	75,811	196,350	1,305	3,379		1.7%
Tennessee	42,144	109,153	41,235	106,798	909	2,355		2.2%
Texas	268,596	695,662	261,232	676,587	7,365	19,075		2.7%
Utah	84,897	219,882	82,170	212,818	2,727	7,064		3.2%
Vermont	9,616	24,906	9,217	23,871	400	1,035		4.2%
Virginia	42,775	110,787	39,490	102,279	3,285	8,508		7.7%
Washington	71,298	184,661	66,456	172,119	4,842	12,542		6.8%
West Virginia	24,230	62,756	24,038	62,259	192	497		0.8%
Wisconsin	65,496	169,635	54,158	140,268	11,339	29,367		17.3%
Wyoming	97,813	253,335	97,093	251,470	720	1,864		0.7%
<b>United States</b>	<b>3,796,742</b>	<b>9,833,517</b>	<b>3,531,905</b>	<b>9,147,593</b>	<b>264,837</b>	<b>685,924</b>		<b>7.0%</b>

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 Page Contact Information: [Howard Perlman](#)  
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