

CHAPTER 196

AN ACT concerning the application of shellfish habitat rules to certain dredging activities, and supplementing Title 12 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.12:5-3.1 Permit or approval to dredge relative to shellfish habitat rules.

1. a. The Department of Environmental Protection shall not require a person to comply with the requirements of N.J.A.C.7:7-9.2, or any substantially similar rule or regulation concerning shellfish habitat, when the person applies to the department for any permit or other approval to dredge:

(1) the established footprint of a functioning marina in operation on the date of enactment of this act, or the footprint of a marina that was in operation up to 10 years prior to the date of enactment of this act;

(2) along a 75-foot wide direct channel between any marina described in paragraph (1) of this subsection and its docks and the closest State or federal navigation channel serving the locality for the marina;

(3) within 250 feet of a vertical timber or other material bulkhead supporting an upland development with a water dependent use or that had a water dependent use up to 10 years prior to the date of enactment of this act; or

(4) within 250 feet of the mean high water line adjacent to an upland development with a water dependent use or that had a water dependent use up to 10 years prior to the date of enactment of this act.

b. (1) A person dredging pursuant to paragraph (3) or (4) of subsection a. of this section shall dredge only the area of the bay floor that is essential to the water dependent use of the upland development.

(2) Paragraphs (3) and (4) of subsection a. of this section shall not apply to any upland development the construction of which is commenced after the date of enactment of this act, or to an expansion of any water dependent use at any upland development. A person dredging for the purposes of an upland development the construction of which is commenced after the date of enactment of this act, or an expansion of any water dependent use at any upland development, shall be required to address impacts to shellfish habitat in accordance with applicable rules and regulations of the department.

c. Nothing in this section shall be construed to limit the application of any other law, rule, regulation, or ordinance to dredging activities. A person dredging pursuant to subsection a. of this section shall obtain all other permits and approvals for the dredging as may be required pursuant to State or federal law, rule, or regulation, or local ordinance.

d. For the purposes of this section, “water dependent use” includes, but is not limited to, a commercial or residential pier, dock, or marina activity that takes place on or near the water, such as commissioning or decommissioning a new or used boat, boat repairs, boat docking, boat storage, fish processing plants and other commercial fishing operations, port activities requiring the loading or unloading of vessels, and water-oriented recreation.

2. This act shall take effect immediately.

Approved August 7, 2017.