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**Section:** OPINION

### **New DEP rules to cause hardships for marinas**

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I am writing in response **to** the commentary by Susan Kennedy of the American Littoral Society on the proposed **rules** on public access pertaining **to** marinas. ("**New rules** enhance public access **to** beachfront," June 6.) Contrary **to** Kennedy's assertions, the **rules** as proposed and currently enforced by the state Department of Environmental Protection have significant impacts on marinas in **New Jersey**. For some marinas, the proposed **rules** will make it impracticable **to** stay in business. The **rules** require any marina seeking **to** obtain a coastal permit for improvements and/or enhancements **to** their facilities **to** provide perpendicular and linear access **to** the waterfront that is accessible **to** the public at all times all year. The access is **to** be deed-restricted in perpetuity.

The Marine Trades Association of **New Jersey** has a number of documents from the **DEP** staff that clearly outline the amount of public access that was required of marinas applying for coastal permits, even prior **to** the posting of these **rules**.

Two **DEP** documents required a 10-foot walkway **to** extend the entire length of the waterfront area. Appropriate parking, including but not limited **to** cars and boat trailers, was also required. The **DEP** denied requests by the marina owner **to** provide alternative access **to** the public when it was physically impossible for the site **to** be reconfigured for the walkway.

The basis for these proposed changes **to** ensure access **to** our beaches and waterways is understandable. The marine trades industry appreciates the **DEP's** acknowledgment of the importance of boating and navigable waterways **to** the general public. Beaches, amusement piers and marinas, however, provide greatly different forms of public access and, therefore, cannot be subject **to** the same one-size-fits-all approach, as proposed in these **rules**.

Marinas are an essential part of our local waterfront communities that provide an accessible service **to** the general public. They provide public boat ramps, fuel service, supplies, slips, restaurants, boat maintenance, fishing access and more. They provide the important boating infrastructure and services that allow people seeking recreation on or near the water **to** safely begin, enjoy and end their excursions.

By definition, a marina already provides and preserves public access **to** the water. In order **to** do so, however, marinas must be able **to** reasonably control and manage their property. These proposed regulations undermine this ability and, in certain instances, take it away.

The care, custody and control of the marina, vessels, slip-holder property and attendant infrastructure is the responsibility of the marina owner and boat owner. The significant risk of injury in certain areas of a marina must be recognized.

Ensuring a safe environment for the general public now becomes a difficult task. The marina owner will need **to** provide additional infrastructure and security **to** control where the public goes when on site beyond the access area. The number of people is finite when accommodating customers and their guests. These regulations, however, provide no restrictions on the amount of people who will gain access.

At many marinas and boat yards, it is logistically impossible **to** secure or restrict access **to** hazardous areas while still providing a walkway and/or access along the entire length of the waterfront. Travel

lifts and forklifts must access the water **to** transport boats and therefore cannot be relocated. Many dry docks are on the water's edge. This heavy machinery and equipment poses a significant risk of injury, both in use and not in use.

The **rules** make reference **to** "the quality of the experience" and "meaningful access." Therefore, it seems ridiculous **to** force a marina, a business that is already providing access, **to** deed-restrict its property, face safety and security issues and increased costs when a reasonable alternative that provides a better quality experience may be nearby and available **to** the public.

Current **DEP rules** are extremely difficult for small-business owners **to** comply with in order **to** upgrade or improve their properties. These **new rules** add **new** layers **to** the permitting process, requiring marina owners **to** seek additional professional services and increased costs. In addition, there are significant space constrictions for many marinas. Many of these businesses are just not able **to** physically provide the space required for additional walkways and parking.

Should the proposed **rules** be adopted, there are significant consequences that affect everyone who enjoys the waterways of **New Jersey**. Certain marinas will be forced or choose not **to** upgrade. Marinas will be discouraged from improving their facilities, resulting in a degrading marine infrastructure. This will ultimately result in the loss of even more access **to** the water for recreation and enjoyment. For many marina operators, complying with this proposal would be the impetus they need **to** get out of the business altogether and sell **to** developers. This will further result in the loss of public access. This loss will forever change the quality of life and recreation for the citizens who boat, fish and play on the water and enjoy the charm of the Jersey coast.

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