

§3304. Provisions for continued use of authorized nonwater-dependent floating structures

1. Eligibility. Notwithstanding any provision of law to the contrary, the owner of a nonwater-dependent floating structure that was in existence as of January 1, 2025 may make application to the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands, referred to in this section as "the bureau," through the submerged lands leasing program established pursuant to Title 12, section 1862 for a nonwater-dependent floating structure lease on the internal waters of the State that authorizes the owner to continue to operate the nonwater-dependent floating structure in accordance with the requirements of this section when the following applies:

A. The applicant holds right, title or interest to the shorefront to which the nonwater-dependent floating structure is attached; or [PL 2025, c. 378, §12 (NEW).]

B. If the nonwater-dependent floating structure is not attached to the shore, the applicant has right, title or interest to the adjacent upland shorefront and holds an approved mooring from the United States Army Corps of Engineers or the municipality in which the structure is located. [PL 2025, c. 378, §12 (NEW).]

[PL 2025, c. 378, §12 (NEW).]

2. Application requirements. To be eligible for consideration for a lease to authorize continued use under this section, an individual or entity must:

A. Submit by January 1, 2026 an application on forms provided by the bureau; [PL 2025, c. 378, §12 (NEW).]

B. Provide proof of right, title or interest to the shorefront to which the nonwater-dependent floating structure will be attached or, if the structure is not attached to the shore, proof of right, title or interest to the adjacent upland shorefront and an approved mooring from the United States Army Corps of Engineers or the municipality in which the structure is located; [PL 2025, c. 378, §12 (NEW).]

C. Provide the names of abutting property owners; [PL 2025, c. 378, §12 (NEW).]

D. Provide the location, intended use, square footage and photo documentation of the existing nonwater-dependent floating structure; and [PL 2025, c. 378, §12 (NEW).]

E. Submit an application fee of \$500. [PL 2025, c. 378, §12 (NEW).]
[PL 2025, c. 378, §12 (NEW).]

3. Bureau procedures. The bureau may take the following actions with respect to an application under this section.

A. The bureau may request additional information from the applicant, government agencies or other parties when necessary to complete its review of an application and make a decision. [PL 2025, c. 378, §12 (NEW).]

B. The bureau shall notify interested parties of receipt of a completed application. As determined by the bureau on a case-by-case basis, interested parties may include, but are not limited to, abutting landowners, landowners with overlapping littoral zones, local municipal officials, harbor masters or others engaged in commercial marine activities or who have notified the bureau of their interest in a particular project. Interested parties must be given 30 days to provide the bureau with comments on a completed application. [PL 2025, c. 378, §12 (NEW).]

C. If the bureau determines that a letter of no objection is required from one or more littoral abutters, the bureau shall send notice to the abutters and the applicant. [PL 2025, c. 378, §12 (NEW).]

D. The bureau or its designee may conduct inspections of the proposed project site in order to assess on-site conditions, the characteristics and uses of adjacent lands, waters and structures and potential impacts on existing trusts. [PL 2025, c. 378, §12 (NEW).]

E. After the initial 30-day review period under paragraph B, if the bureau determines that it is appropriate, additional information may be requested from the applicant or other parties or a public informational meeting may be scheduled in order to allow the general public to provide additional information for consideration. [PL 2025, c. 378, §12 (NEW).]

F. Once all requested information is received and any public meetings under paragraph E have been concluded, the bureau shall issue preliminary findings. Preliminary findings must be sent to the applicant and all parties who provided comments during the initial review period and other interested parties. [PL 2025, c. 378, §12 (NEW).]

G. Within 30 days of the issuance of preliminary findings under paragraph F, any party may petition the bureau director to reconsider such findings by written request. The bureau director may waive the reconsideration period if no comments are received during the initial review period or if the comments that are received are determined to not be related to public trust rights. [PL 2025, c. 378, §12 (NEW).]

H. The bureau shall review any petitions for reconsideration under paragraph G and related information and issue its final findings and decision. If the decision is to approve the application, 2 original copies of the lease must be sent to the applicant for signature. [PL 2025, c. 378, §12 (NEW).]

[PL 2025, c. 378, §12 (NEW).]

4. Bureau determination. In making its determination with respect to an application under this section, the bureau shall consider the following:

A. Whether the applicant has demonstrated that the applicant has sufficient right, title or interest to the upland property, including intertidal land, adjacent to the littoral zone in which the nonwater-dependent floating structure lease is sought. To demonstrate right, title or interest, an applicant must provide:

- (1) When the applicant owns the property, a copy of the deed to the property;
- (2) When the applicant has a lease on the property, a copy of the lease. The lease must be of sufficient duration and terms, as determined by the bureau, to permit reasonable use of the facility; and
- (3) When the applicant has an option to buy or lease the property, a copy of the option agreement. The option agreement must contain terms considered sufficient by the bureau to establish future title or a leasehold of sufficient duration; [PL 2025, c. 378, §12 (NEW).]

B. Whether littoral zones and setback standards delineate the lease area adjacent to the applicant's upland property and establish adequate separation between structures for navigation and access both for the public and riparian owners. Littoral zones do not delineate areas for the exclusive use of the applicant or other riparian owners. Littoral zone boundaries are established by right angle projections from a baseline established along the shoreline at the intersection of the high-water line and the side boundary of each property. The littoral zone sidelines terminate at either the established navigational channel, established anchorage identified as such by the United States Army Corps of Engineers, the midline between opposing shorelines or 1,000 feet, whichever is less. Setback standards are established from other existing structures and an applicant's littoral zone boundary. When littoral zones overlap, structures must be set back 25 feet from an applicant's littoral zone sidelines and must be 50 feet from other existing structures; [PL 2025, c. 378, §12 (NEW).]

C. Whether the proposed use of the lease area would unreasonably interfere with customary or traditional public access ways; [PL 2025, c. 378, §12 (NEW).]

D. Whether the proposed use of the lease area would unreasonably interfere with the public trust rights of fishing, fowling and navigation; [PL 2025, c. 378, §12 (NEW).]

E. Whether there are other commercial marine services or facilities in the proposed lease area; [PL 2025, c. 378, §12 (NEW).]

F. Whether the nonwater-dependent floating structure would unreasonably interfere with ingress and egress of riparian owners; [PL 2025, c. 378, §12 (NEW).]

G. Whether the nonwater-dependent floating structure would result in significant risk to life or property in the vicinity of the use under conditions of weather and vessel traffic; [PL 2025, c. 378, §12 (NEW).]

H. Whether there is evidence in the record that any portion of the proposed lease area has been designated for special protection by an agency authorized to make such designations; [PL 2025, c. 378, §12 (NEW).]

I. Whether the use conflicts with those aspects of the coastal policies or the coastal policy guidelines in section 1801 that relate to the criteria considered by the bureau; [PL 2025, c. 378, §12 (NEW).]

J. Whether the lease terms require the applicant to obtain all necessary federal, state and local approvals; and [PL 2025, c. 378, §12 (NEW).]

K. Whether the applicant has paid the fee required for processing the application. [PL 2025, c. 378, §12 (NEW).]

The bureau may consult with other agencies and organizations as appropriate when considering the terms of a submerged lands nonwater-dependent floating structure lease. [PL 2025, c. 378, §12 (NEW).]

5. Bureau approval required. If approved for the issuance of a lease, the owner may continue to operate the nonwater-dependent floating structure in accordance with the requirements of this section and subject to the terms of the lease. [PL 2025, c. 378, §12 (NEW).]

6. Operational standards. A nonwater-dependent floating structure that is authorized to continue operating pursuant to a lease issued in accordance with this section must meet all applicable standards in law or rule or the structure's authorization to continue operation may be revoked through a termination of the lease. A nonwater-dependent floating structure must meet the following criteria.

A. The structure must be labeled with the owner's name, telephone number and e-mail address. [PL 2025, c. 378, §12 (NEW).]

B. If the structure is located on coastal waters, it must comply with 33 United States Code, Section 1322. [PL 2025, c. 378, §12 (NEW).]

C. If the structure is located on inland waters, it must comply with section 423, have a waterless composting or desiccating toilet, have a holding tank for which tank pumping records must be provided upon request or have landside-only facilities, meaning no toilet, shower or sink on board that discharges. [PL 2025, c. 378, §12 (NEW).]

D. The structure is subject to inspection by representatives of the State to ensure compliance with any of the provisions of applicable law or rule. [PL 2025, c. 378, §12 (NEW).]
[PL 2025, c. 378, §12 (NEW).]

7. Limitations. The following limitations apply.

A. A lease may not be issued under this section for an area greater than 1,500 square feet. [PL 2025, c. 378, §12 (NEW).]

B. Once sited in accordance with a lease issued under this section, a nonwater-dependent floating structure may not be sited in any other location on the internal waters of the State. [PL 2025, c. 378, §12 (NEW).]

C. A lease may be issued under this section for a 10-year term, which is renewable. If the nonwater-dependent floating structure is destroyed or has met the end of its useful life prior to the expiration of the lease, the lease authorization under this section expires. [PL 2025, c. 378, §12 (NEW).]
[PL 2025, c. 378, §12 (NEW).]

8. Lease fees. The following lease fees apply with respect to leases issued under this section.

A. For a lease for an area that is 500 square feet or less, the annual lease fee is \$250. [PL 2025, c. 378, §12 (NEW).]

B. For a lease for an area that is greater than 500 square feet and less than or equal to 1,000 square feet, the annual lease fee is \$500. [PL 2025, c. 378, §12 (NEW).]

C. For a lease for an area that is greater than 1,000 square feet and less than or equal to 1,500 square feet, the annual lease fee is \$1,000. [PL 2025, c. 378, §12 (NEW).]
[PL 2025, c. 378, §12 (NEW).]

9. Final agency action. Decisions made by the bureau under this section constitute final agency action for the purposes of judicial review under Title 5, chapter 375.
[PL 2025, c. 378, §12 (NEW).]

SECTION HISTORY

PL 2025, c. 378, §12 (NEW).

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