

3. Removing sediment by hand adjacent to a bridge, culvert or outfall along a public roadway
 4. Reconstructing a bridge superstructure above a flood hazard area
- (e) Activities associated with the storage of unsecured material
1. Temporary storage of construction material outside a floodway
 2. Incidental storage of material associated with a residence
 3. Incidental storage of material associated with a non-residence
 4. Operating an existing business that stores and distributes material
 5. Operating an existing hazardous waste facility
 6. Operating an existing solid waste facility
- (f) Agricultural activities
1. Continuing ongoing agricultural activities that result in no fill
 2. Commencing new agricultural activities that result in no fill
 3. Undertaking soil conservation practices outside a floodway
 4. Constructing an agricultural building of no more than 1,000 square feet outside a floodway

Public Notice.

See: 41 N.J.R. 2728(a), 3851(a).

7:13-7.2 Permits-by-rule

(a) The permits-by-rule at (a)1 through 8 below apply to the specified construction and maintenance activities listed therein. Pursuant to N.J.A.C. 7:13-7.1(d), prior written notice to the Department is required for each of these permits-by-rule.

1. The reconstruction of a lawfully existing structure outside a floodway, provided:

- i. The structure is not a habitable building;
- ii. The structure is not a retaining wall that extends four feet or more above the ground;
- iii. The reconstructed structure lies within the footprint of the existing structure and is not enlarged;
- iv. The reconstruction is not a major development, as defined at N.J.A.C. 7:8-1.2, and is, therefore, not subject to the requirements of the Stormwater Management rules at N.J.A.C. 7:8;
- v. No vegetation is cleared, cut or removed in a riparian zone, except for vegetation within 20 feet of the structure if such disturbance is necessary to facilitate its reconstruction; and
- vi. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;

2. Any construction activity, provided:

- i. If the activity is located in a flood hazard area, all construction is situated at or below grade and the existing ground elevation is not raised (such as for the construction of a bicycle path, driveway, fishing or hunting area, garden, lawn, nature preserve, outdoor recreation area, park, parking area, picnic ground, playground, playing field, roadway, sidewalk or trail);

ii. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;

iii. The construction activity is not a major development, as defined at N.J.A.C. 7:8-1.2, and is therefore not subject to the requirements of the Stormwater Management rules at N.J.A.C. 7:8;

iv. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and

v. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;

3. The elevation of a lawfully existing building outside a floodway, in order to reduce flood damage potential, provided:

- i. The building to be elevated is not relocated;
- ii. The lowest finished floor of the building is raised to at least one foot above the flood hazard area design flood elevation;
- iii. The area below the lowest finished floor of the building is not used for habitation and remains open to floodwaters, in accordance with N.J.A.C. 7:13-11.5(I);
- iv. No vegetation is cleared, cut or removed in a riparian zone, except for vegetation within 20 feet of the building if such disturbance is necessary to facilitate its elevation; and

v. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;

4. The construction of an addition that is connected to a lawfully existing building outside a floodway, provided:

- i. The addition has a footprint of no more than 300 square feet;
 - ii. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;
 - iii. No part of the addition extends into a floodway;
 - iv. No vegetation is cleared, cut or removed in a riparian zone, except for vegetation within 20 feet of the addition if such disturbance is necessary to facilitate its construction; and
 - v. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
5. The use of machinery to remove a major obstruction from a regulated water that cannot be removed by hand, such as a fallen tree, abandoned vehicle, furniture and other large debris, provided:
- i. No trees are disturbed in the riparian zone to provide access to the channel and/or obstruction;
 - ii. The machinery is situated outside the regulated water where possible;
 - iii. The timing restrictions set forth at N.J.A.C. 7:13-10.5(d) are observed; and
 - iv. No fill material or accumulated sediment is removed from the regulated water;
6. The construction of a boat launching ramp, provided:
- i. The ramp has a footprint of no more than 2,000 square feet;
 - ii. The ramp is constructed at or below grade;
 - iii. The timing restrictions set forth at N.J.A.C. 7:13-10.5(d) are observed;
 - iv. No more than 2,000 square feet of vegetation, including permanent and temporary disturbance, is cleared, cut or removed in a riparian zone; and
 - v. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
7. The construction of an aquatic habitat enhancement device provided:
- i. The device is approved by the Department's Division of Fish and Wildlife, Bureau of Freshwater Fisheries;
 - ii. The device will not cause erosion in the regulated water;
 - iii. The device will not cause any rise in the flood hazard area design flood elevation outside the regulated water;
- iv. The device will not cause any existing building to be subject to increased flooding during any flood event up to and including the flood hazard area design flood;
 - v. The timing restrictions set forth at N.J.A.C. 7:13-10.5(d) are observed;
 - vi. No more than 2,000 square feet of vegetation, including permanent and temporary disturbance, is cleared, cut or removed in a riparian zone; and
 - vii. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
8. The construction of a gauge, weir or other device to measure the depth, velocity and/or rate of flow in a regulated water provided:
- i. The device is approved by the United States Geological Survey;
 - ii. The device will not cause erosion in the regulated water;
 - iii. The device will not cause any rise in the flood hazard area design flood elevation outside the regulated water;
 - iv. The device will not cause any existing building to be subject to increased flooding during any flood event up to and including the flood hazard area design flood;
 - v. The timing restrictions set forth at N.J.A.C. 7:13-10.5(d) are observed;
 - vi. No more than 2,000 square feet of vegetation, including permanent and temporary disturbance, is cleared, cut or removed in a riparian zone; and
 - vii. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity.
- (b) The permits-by-rule at (b)1 through 18 below apply to the specified construction and maintenance activities listed therein.
1. The disturbance of vegetation in a riparian zone for normal property maintenance.
 - i. Normal property maintenance means an activity necessary to maintain a lawfully existing structure, lawn and/or garden and includes:
 - (1) Pruning;
 - (2) Selective tree cutting;
 - (3) Planting indigenous, non-invasive vegetation;