

2. Placing an open guardrail along a public roadway
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), 4127(b).

Amended by R.2010 d.193, effective September 7, 2010.

See: 41 N.J.R. 3168(a), 41 N.J.R. 4168(a), 42 N.J.R. 642(a), 42 N.J.R. 2066(b).

In Table A, added (b)19.

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 con-

struction 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(l);
- 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 19 below apply to the specified construction and maintenance activities listed therein.