

§488. Applicability

This article does not apply to any development in existence or in possession of applicable state or local licenses to operate or under construction on January 1, 1970, or to any development the construction and operation of which has been specifically authorized by the Legislature prior to May 9, 1970, or to public service corporation transmission lines, except transmission lines carrying 100 kilovolts or more, nor does it apply to the renewal or revision of leases of parcels of land upon which a structure or structures have been located as of March 15, 1972, nor to the rebuilding or reconstruction of natural gas pipelines or transmission lines within the same right-of-way. For purposes of this paragraph, development that reuses a building and associated facilities in existence on January 1, 1970 is exempt from review under this article. When determining if development meets the definition of "development of state or regional significance that may substantially affect the environment" and therefore is subject to review under this article, the department may not consider development in existence on January 1, 1970 that is exempt from review pursuant to this paragraph. When reviewing a proposal for development of state or regional significance that may substantially affect the environment under this article, the department may not consider in the review any development in existence on January 1, 1970 that is exempt from review pursuant to this paragraph. [PL 2011, c. 551, §1 (AMD).]

1. Unorganized areas.

[PL 1993, c. 383, §26 (RP); PL 1993, c. 383, §42 (AFF).]

2. Organized areas.

[PL 1993, c. 383, §26 (RP); PL 1993, c. 383, §42 (AFF).]

3. Standards, guidelines, definitions and revisions.

[PL 1995, c. 704, Pt. A, §16 (RP); PL 1995, c. 704, Pt. C, §§2, 3 (AFF).]

4. Exemption.

[PL 1989, c. 769, §5 (RP).]

5. Subdivision exemptions. The following development is exempt from this article:

A. [PL 1993, c. 383, §26 (RP); PL 1993, c. 383, §42 (AFF).]

B. A development that consists only of a subdivision if:

- (1) The average density of the subdivision is not higher than one lot for every 5 acres of developable land in the parcel;
- (2) At least 50% of the developable land in the parcel is preserved in perpetuity through conservation easements pursuant to Title 33, chapter 7, subchapter VIII-A, in common areas no smaller than 10 acres in size and of dimensions that accommodate within each common area boundary a rectangle measuring 250 feet by 500 feet;
- (3) The conservation easements preserve the land in an essentially undeveloped natural state including the preservation of farmland having a history of agricultural use and the preservation of forest land for harvesting by uneven-aged selection methods designed to retain the natural character of the area, except that other methods of harvesting are permissible following a natural disaster;
- (4) The conservation easements grant a 3rd-party right of enforcement, as defined in Title 33, section 476, to the department. The conservation easements granting a 3rd-party right of enforcement must be submitted to and accepted by the commissioner;
- (5) All significant wildlife habitat that is mapped or that qualifies for mapping under section 480-B, subsection 10 is included in the preserved land area under subparagraph (3);

(6) No clearing, grading, filling or other development activity occurs on sustained slopes in excess of 30%;

(7) If the developable land in the parcel not subject to the requirements of subparagraphs (3) and (5) is located wholly or in part in the watershed of any lake or pond classified GPA under section 465-A, long-term measures to control phosphorus transport are taken in accordance with a phosphorus control plan that is consistent with standards for phosphorus control adopted by the board;

(8) Soil erosion and sedimentation during development of the subdivision are controlled in accordance with a plan approved by the municipality in which the subdivision is located or by the soil and water conservation district for the county in which the subdivision is located;

(9) The nonpreserved, developable land in the parcel is not located wholly or partly within the shoreland zone of a lake or pond classified GPA under section 465-A; and

(10) At the time all necessary conservation easements are filed with the department and at least 30 days prior to the commencement of clearing and construction activity, the person creating the subdivision notifies the commissioner in writing on a form supplied by the commissioner that the exemption afforded by this paragraph is being used. The person creating the subdivision shall file with that form a set of site plans, including the plans required under subparagraphs (7) and (8), and other evidence sufficient to demonstrate that the requirements of this paragraph have been met. The commissioner shall forward a copy of the form to the municipality in which the subdivision is located.

For purposes of this paragraph, "developable land in the parcel" means all contiguous land in the same ownership except for coastal wetlands, freshwater wetlands, rivers, streams and brooks as defined in section 480-B and except for any surface water classified GPA under section 465-A. [PL 1995, c. 704, Pt. A, §17 (AMD); PL 1995, c. 704, Pt. C, §2 (AFF).]

C. [PL 1995, c. 704, Pt. A, §17 (RP); PL 1995, c. 704, Pt. C, §2 (AFF).]

D. [PL 1995, c. 704, Pt. A, §17 (RP); PL 1995, c. 704, Pt. C, §2 (AFF).]
[PL 1995, c. 704, Pt. A, §17 (AMD); PL 1995, c. 704, Pt. C, §2 (AFF).]

6. Multi-unit housing exemption.

[PL 1993, c. 383, §26 (RP); PL 1993, c. 383, §42 (AFF).]

7. Exemption for expansion at existing manufacturing facility. New construction at a licensed manufacturing facility is exempt from review under this article as long as the additional disturbed area not to be revegetated does not exceed 40,000 square feet ground area in any calendar year and does not exceed 80,000 square feet ground area in total. When review under this article is required at a licensed manufacturing facility, the applicant shall provide plans for the new development, as well as for those activities that have been undertaken pursuant to this subsection. The permittee shall annually notify the department of new construction conducted during the previous 12 months pursuant to this exemption. The notice must identify the type, location and ground area of the new construction. [PL 2021, c. 123, §1 (AMD).]

8. Exemption for storage facility.

[PL 1995, c. 704, Pt. A, §18 (RP); PL 1995, c. 704, Pt. C, §2 (AFF).]

9. Development within unorganized areas.

[PL 2013, c. 405, Pt. B, §5 (RP).]

9-A. Development within unorganized areas. Except for development described in paragraphs A, B and C, development located within the unorganized and deorganized areas, as defined in Title 12, section 682, subsection 1, is subject to review by the department for compliance with this article. The

department shall review development within the unorganized and deorganized areas in accordance with section 489-A-1.

A. A community-based offshore wind energy project, as defined in Title 12, section 682, subsection 19, is reviewed under Title 12, section 685-B, subsection 2-C and is exempt from the requirements of this article. [PL 2011, c. 682, §32 (NEW); PL 2011, c. 682, §40 (AFF).]

B. Except for grid-scale wind energy development, development within a planned subdistrict as defined in Title 12, section 682, subsection 20 and approved or accepted for processing prior to September 1, 2012 is reviewed by the commission and is exempt from the requirements of this article. [PL 2011, c. 682, §32 (NEW); PL 2011, c. 682, §40 (AFF).]

C. An amendment or revision to a development approved by the Maine Land Use Regulation Commission prior to September 1, 2012 is exempt from review under this article unless the proposed revision by itself is a development of state or regional significance that may substantially affect the environment. [PL 2011, c. 682, §32 (NEW); PL 2011, c. 682, §40 (AFF).]

Subdivision plans approved and orders issued by the department under this article must be recorded in the registry of deeds in the county in which the development is located within 90 days.

Violation and enforcement provisions in chapter 2, subchapter 1 apply to development reviewed by the department under this subsection.

[PL 2011, c. 682, §32 (NEW); PL 2011, c. 682, §40 (AFF).]

10. Roads and railroad tracks. A structure consisting only of a road or a road together with the structure area within a residential lot, as described in subsection 17 is exempt from the requirements of this article. Railroad tracks other than tracks within yards or stations are exempt from review under this article.

[PL 1995, c. 493, §6 (AMD); PL 1995, c. 493, §21 (AFF).]

11. Farm and fire ponds. A pond that is used for irrigation of field crops, water storage for cranberry operations or fire protection determined to be necessary in that location by the municipal fire department is exempt from review under this article. This provision does not provide an exemption for excavation for borrow, clay, topsoil or silt.

[PL 2011, c. 653, §21 (AMD); PL 2011, c. 653, §33 (AFF).]

12. Structures within permitted commercial and industrial subdivisions. A person may construct or cause to be constructed, or operate or cause to be operated, a structure on a lot in a commercial or industrial subdivision approved pursuant to this article without obtaining approval under this article for that structure, as long as all terms and conditions of the subdivision permit are met. This subsection applies to commercial or industrial subdivisions approved pursuant to this article on or after the effective date of this subsection.

[PL 1993, c. 383, §26 (NEW); PL 1993, c. 383, §42 (AFF).]

13. Research and aquaculture leases. Activities regulated by the Department of Marine Resources under Title 12, section 6072, 6072-A, 6072-B or 6072-C are exempt from the requirements of this article.

[PL 2007, c. 292, §28 (AMD).]

14. Developments within designated growth areas. The following provisions apply to developments within a designated growth area.

A. A development is exempt from review under flood plain, noise and infrastructure standards under section 484 if that development is located entirely within:

- (1) A municipality that has adopted a local growth management program that has been certified under Title 5, section 3233; and

- (2) An area designated in that municipality's local growth management program as a growth area.

An applicant claiming an exemption under this paragraph shall include with the application a statement from the Department of Agriculture, Conservation and Forestry affirming that the location of the proposed development meets the provisions of subparagraphs (1) and (2).

An applicant claiming an exemption under this paragraph shall publish a notice of that application in a newspaper of general circulation in the region that includes the municipality in which the development is proposed to occur. That notice must include a statement indicating the standard or standards for which the applicant is claiming an exemption. [PL 2025, c. 388, Pt. D, §42 (AMD).]

B. The commissioner may require application of the noise, flood plain or infrastructure standards to a proposed development if the commissioner determines, after receipt of a petition under subparagraph (1) or on the commissioner's own initiative under subparagraph (2), that a reasonable likelihood exists that the development will have a significant and unreasonable impact on flood plains, infrastructure or noise beyond the boundaries of the municipality within which the development is to be located.

- (1) Within 15 working days after the publication of the notice required under paragraph A, municipal officers or residents of the municipality in which the development is proposed to occur or municipal officers or residents of an abutting municipality may petition the commissioner to apply one or more of the standards for which an exemption is claimed under this subsection. A petition must be signed either by the municipal officers of the petitioning municipality or by 10% of that number of registered voters of the petitioning municipality casting ballots in the most recent gubernatorial election or 150 registered voters of the petitioning municipality, whichever is less. The petition must include the name and legal address of each signatory and must designate one signatory as the contact person. The commissioner shall notify the contact person and the applicant of the commissioner's decision within 10 working days after receipt of a petition meeting the requirements of this subsection. A decision by the commissioner under this subparagraph is appealable to the board.

- (2) A decision to require the application of one or more standards made on the commissioner's own initiative must be made within 15 working days after the application is filed with the department. [PL 1999, c. 468, §13 (AMD).]

Nothing in this subsection may be construed to exempt a proposed development from review for flooding potential due to increases in storm water runoff caused by the development. [PL 2025, c. 388, Pt. D, §42 (AMD).]

15. Exemption for former military bases. Development on a military base at the time ownership of the military base is acquired by a state or local development authority is exempt from review under this article. Subsequent transfer of ownership or lease of a former military base or any portion of a former military base by a state or local development authority to another entity does not affect the exemption granted under this subsection. Development proposed or occurring on a former military base after ownership of the military base is acquired by a state or local development authority is subject to review under this article, except to the extent that the development reuses a building and associated facilities in existence on September 29, 1995.

For purposes of this subsection, "military base" means all property under the ownership or control of a federal military authority prior to the acquisition of ownership by a state or local development authority, the ownership of which is subsequently acquired by a state or local development authority. For purposes of this subsection, "ownership" means a fee interest or leasehold interest in property.

A. Development that is not exempt under this subsection is subject to review under this article if it meets the definition of "development of state or regional significance that may substantially affect the environment." [PL 2011, c. 551, §2 (NEW).]

B. When reviewing a proposal for development of state or regional significance that may substantially affect the environment, the department may not consider in the review any development that is exempt from review pursuant to this subsection. [PL 2011, c. 551, §2 (NEW).]

The provisions of this subsection do not apply to a proposed development to be located on property owned or controlled by the Midcoast Regional Redevelopment Authority established in Title 5, section 13083-G.

[PL 2025, c. 412, §6 (AMD).]

16. Small road quarry.

[PL 1997, c. 502, §11 (RP); PL 1997, c. 502, §18 (AFF).]

17. Structure area within residential lots. Buildings, roads, paved areas or areas to be stripped or graded and not revegetated that are located within lots used solely for single-family residential housing are not counted toward the 3-acre threshold described in section 482, subsection 6, paragraph B for purposes of determining jurisdiction. A road associated only with such lots is also not counted toward the 3-acre threshold. For purposes of this subsection, "single-family residential housing" does not include multi-unit housing such as condominiums and apartment buildings.

[PL 1997, c. 393, Pt. A, §45 (AMD).]

18. Roundwood and lumber storage yards. A roundwood or lumber storage yard and any road associated with the yard is exempt from review under this article, as provided in this subsection.

A. A roundwood or lumber storage yard and any road associated solely with the yard, constructed on or after the effective date of this subsection, is exempt from review under this article provided it is constructed and operated in accordance with the erosion and sedimentation control standards and storm water management standards contained in board rules. The person conducting these activities shall file a notice of intent to comply with the department prior to clearing and construction. [PL 1995, c. 493, §7 (NEW).]

B. A roundwood or lumber storage yard and any road associated solely with the yard, constructed prior to the effective date of this subsection, is exempt from review under this article provided the following requirements are met.

(1) Within one year after the effective date of this subsection, a notice of intent to comply must be provided to the department.

(2) Within 2 years of the effective date of this subsection, construction and operation of the yards and roads must be in compliance with the erosion and sedimentation control standards and storm water standards contained in board rules and adopted pursuant to section 484.

(3) Any expansion or alteration of such facilities must meet the requirements of paragraph A. [PL 2001, c. 232, §18 (AMD).]

C. Notice of intent filed under this subsection must be complete, submitted on forms approved by the department and mailed by certified mail, return receipt requested. The notice must include a fee of \$250. The fee for transfer or minor revision of the notice of intent is \$105. [PL 2001, c. 232, §18 (AMD).]

D. [PL 2001, c. 232, §19 (RP).]

E. For purposes of this subsection only, "roundwood" means logs, bolts and other round sections of wood as they are cut from the tree and split firewood. [PL 1997, c. 603, §3 (AMD).]

[PL 2001, c. 232, §§18, 19 (AMD).]

19. Municipal capacity. A structure, as defined in section 482, subsection 6, that is from 3 acres up to and including 10 acres or a subdivision, as defined in section 482, subsection 5, that is made up of 15 or more lots for single-family, detached, residential housing, common areas or open space with an aggregate area of from 30 acres up to and including 100 acres is exempt from review under this article if it is located wholly within a municipality or municipalities meeting the criteria in paragraphs A to D as determined by the department and it is located wholly within a designated growth area as identified in a comprehensive plan adopted pursuant to Title 30-A, chapter 187, subchapter 2. The planning board of the municipality in which the development is located or an adjacent municipality may petition the commissioner to review such a structure or subdivision if it has regional environmental impacts. This petition must be filed within 20 days of the receipt of the application by the municipality. State jurisdiction must be exerted, if at all, within 30 days of receipt of the completed project application by the commissioner from the municipality or within 30 days of receipt of any modification to that application from the municipality. Review by the department is limited to the identified regional environmental impacts. The criteria are as follows:

- A. A municipal planning board or reviewing authority is established and the municipality has adequate resources to administer and enforce the provisions of its ordinances. In determining whether this criterion is met, the commissioner may consider any specific and adequate technical assistance that is provided by a regional council; [PL 1995, c. 704, Pt. A, §20 (NEW); PL 1995, c. 704, Pt. C, §2 (AFF).]
- B. The municipality has adopted a site plan review ordinance. In determining the adequacy of the ordinance, the commissioner may consider model site plan review ordinances commonly used by municipalities in this State that address the issues reviewed under applicable provisions of this article prior to July 1, 1997; [PL 1997, c. 485, §1 (AMD).]
- C. The municipality has adopted subdivision regulations. In determining the adequacy of these regulations, the commissioner may consider model subdivision regulations commonly used by municipalities in this State; and [PL 1997, c. 485, §1 (AMD).]
- D. The former State Planning Office or the Department of Agriculture, Conservation and Forestry has determined that the municipality has a comprehensive land use plan and land use ordinances or zoning ordinances that are consistent with Title 30-A, chapter 187 in providing for the protection of wildlife habitat, fisheries, unusual natural areas and archaeological and historic sites. [PL 2011, c. 655, Pt. FF, §13 (AMD); PL 2011, c. 655, Pt. FF, §16 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

The department, in consultation with the Department of Agriculture, Conservation and Forestry, shall publish a list of those municipalities determined to have capacity pursuant to this subsection. This list need not be established by rule and must be published by January 1st of each year. The list must specify whether a municipality has capacity to review structures or subdivisions of lots for single-family, detached, residential housing, common areas or open space or both types of development. The department may recognize joint arrangements among municipalities and regional organizations in determining whether the requirements of this subsection are met. The department may review municipalities that are determined to have capacity pursuant to this subsection for compliance with the criteria in paragraphs A to D, and if the department determines that a municipality does not meet the criteria, the department may modify or remove the determination of capacity.

A modification to a development that was reviewed by a municipality and exempted pursuant to this subsection or was reviewed by the department prior to a determination that a municipality has capacity pursuant to this subsection is exempt as long as the modification will not cause the total area of the development to exceed the maximum acreage specified in this subsection for that type of development or, based upon information submitted by the municipality concerning the development and

modification, the department determines that the modification may be adequately reviewed by the municipality.

[PL 2021, c. 51, §1 (AMD).]

REVISOR'S NOTE: (Subsection 19 as enacted by PL 1995, c. 625, Pt. A, §54 is REALLOCATED TO TITLE 38, SECTION 488, SUBSECTION 21)

20. Modifications in permitted subdivisions. Review is not required under this article in the following instances:

A. When the owner of a single lot in a subdivision with a permit under this article conveys a right of access to adjacent land that was not part of the permitted subdivision, if the right-of-way is not contrary to the terms of the subdivision permit and the right-of-way is not more than 50 feet long; or [PL 2001, c. 232, §20 (AMD).]

B. When 2 lot owners in a subdivision with a permit under this article convey reciprocal easements for the purpose of constructing a common driveway in place of 2 separate driveways, if the single driveway reduces the total amount of impervious area in the affected subwatershed and the single driveway is not contrary to the terms of the subdivision permit. [PL 2001, c. 232, §20 (AMD).]

C. [PL 2001, c. 232, §20 (RP).]

[PL 2001, c. 232, §20 (AMD).]

21. (REALLOCATED FROM T. 38, §488, sub-§19) Waste facilities. Waste facilities regulated by the department under section 1310-N, 1319-R or 1319-X are exempt from review under this article. This exemption applies to new facilities, modifications of facilities, transfers of facilities and relicensing of facilities.

[RR 1995, c. 2, §98 (RAL).]

22. Unauthorized subdivision lots in existence for at least 20 years. A lot that when sold or leased created a subdivision requiring a permit under this article is not considered a subdivision lot and is exempt from the permit requirement for a subdivision if a permit has not been obtained and the subdivision has been in existence for 20 or more years. A lot is considered a subdivision lot and is not exempt under this subsection if:

A. Approval of the subdivision under this article was denied by the department and the department's decision was recorded in the appropriate registry of deeds; [PL 2003, c. 226, §1 (NEW).]

B. The department has issued a notice of violation of this article with respect to the subdivision; or [PL 2003, c. 226, §1 (NEW).]

C. The lot has been the subject of an enforcement action or order. [PL 2003, c. 226, §1 (NEW).]
[PL 2003, c. 226, §1 (NEW).]

23. Agricultural fair property. Development on property that is used for one or more agricultural fairs licensed by the Commissioner of Agriculture, Conservation and Forestry under Title 7, chapter 4 is exempt from review under this article if:

A. The property is not used for motorized vehicle racing for more than 14 days beyond those days authorized for the operation of the agricultural fair; [PL 2005, c. 217, §1 (NEW).]

B. Motorized vehicle racing on the property is licensed by the Department of Public Safety; [PL 2005, c. 217, §1 (NEW).]

C. Use of the property beyond those days authorized for the operation of the agricultural fair meets a noise standard pursuant to section 484, subsection 3. The department shall enforce the noise standard under this paragraph; and [PL 2005, c. 217, §1 (NEW).]

D. The property has been identified as the location of an agricultural fair in an agricultural fair license issued by the Department of Agriculture, Food and Rural Resources prior to September 15, 2006. [PL 2005, c. 217, §1 (NEW).]

[PL 2005, c. 563, §17 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

24. Nonmetallic mining accessory uses and facilities. Accessory uses and facilities within an excavation or quarry operating under the performance standards in article 7 or 8-A are exempt from this article if the performance standards in article 7 or 8-A or the rules implementing those articles are at a minimum as restrictive as the standards imposed under this article. For the purposes of this subsection, "accessory uses and facilities" means uses and facilities associated with the processing of material pursuant to article 7 or 8-A such as screening and the crushing, loading and manufacture of ready-mix concrete and bituminous concrete and associated products and weight scales, scale sheds and maintenance garages. This subsection does not apply to a development constructed during or after reclamation.

[PL 2007, c. 616, §2 (NEW).]

25. Offshore wind power project and certain standards. An offshore wind power project with an aggregate generation capacity of 3 megawatts or more is exempt from review under the existing use standard in section 484, subsection 3, insofar as the department determines that review is required under criteria specified in Title 12, section 1862, subsection 2, paragraph A, subparagraph (6).

[PL 2009, c. 615, Pt. E, §20 (NEW).]

26. Exemption for existing ski area facilities. New construction at or a modification of a ski area facility permitted pursuant to this article is exempt from review under this article as provided in this subsection.

A. New construction at or a modification of a ski area facility permitted pursuant to this article is exempt from review under this article if:

- (1) The additional disturbed area not to be revegetated does not exceed 30,000 square feet ground area in any calendar year and does not exceed 60,000 square feet ground area in total;
- (2) The construction or modification does not involve a division of the parcel of land;
- (3) The construction or modification is not of a building having an area in excess of 3,500 square feet; and
- (4) It is construction or modification of equipment or facilities that are ancillary to and necessary for the operation of the ski area facility permitted pursuant to this article, including, but not limited to, snowmaking equipment, lift towers, lights, signs, fences, water or air pumps, pump houses and storage buildings. [PL 2011, c. 551, §3 (NEW).]

B. The permittee shall annually notify the department of any new construction or modifications conducted during the previous 12 months that fall under this exemption. The notice must identify the type, location and ground area of the new construction or modification. With the annual notification, the permittee shall provide to the department development plans certified by a professional engineer for the new construction or modification undertaken pursuant to this subsection. [PL 2011, c. 551, §3 (NEW).]

C. When review under this article is required for new construction at or a modification of a permitted ski area facility, the permittee shall provide plans for the new development, as well as for those activities that have been undertaken pursuant to this subsection. [PL 2011, c. 551, §3 (NEW).]

[PL 2011, c. 551, §3 (NEW).]

27. Exemption for educational institutions. New construction at or a modification of a campus of an educational institution permitted pursuant to this article is exempt from review under this article

as provided in this subsection. For purposes of this subsection, "educational institution" means any private or public school or postsecondary institution.

A. New construction at or a modification of a campus of an educational institution permitted pursuant to this article is exempt from review under this article if the additional disturbed area not to be revegetated does not exceed 40,000 square feet ground area in any calendar year and does not exceed 80,000 square feet ground area in total. [PL 2021, c. 123, §2 (AMD).]

B. The permittee shall annually notify the department of any new construction or modifications conducted during the previous 12 months that fall under this exemption. The notice must identify the type, location and ground area of the new construction or modification. With the annual notification, the permittee shall provide to the department development plans certified by a professional engineer for the new construction or modification undertaken pursuant to this subsection. [PL 2011, c. 551, §3 (NEW).]

C. When review under this article is required at an educational institution permitted pursuant to this article, the permittee shall provide plans for the new development, as well as for those activities that have been undertaken pursuant to this subsection. [PL 2011, c. 551, §3 (NEW).]

D. Nothing in this subsection authorizes a person to undertake an activity on a parcel of land affected by an order or permit issued by the department that is contrary to that order or permit. [PL 2011, c. 551, §3 (NEW).]
[PL 2021, c. 123, §2 (AMD).]

28. Applicability of exemptions. Unless otherwise specifically provided, nothing in this section exempts any activity from any requirements under this Title, rules adopted pursuant to this Title or the terms or conditions of a license, permit or order issued by the board or the commissioner. [PL 2011, c. 551, §3 (NEW).]

29. Exemption for new construction at or modification of existing development. New construction at or modification of an existing licensed development that is permitted pursuant to this article is exempt from review under this article if:

A. The additional disturbed area not to be revegetated does not exceed 10,000 square feet ground area in any calendar year and does not exceed 20,000 square feet ground area in total; and [PL 2013, c. 183, §1 (NEW).]

B. The construction or modification does not involve a division of the parcel of land. [PL 2013, c. 183, §1 (NEW).]

The permittee shall annually notify the department of any new construction or modification undertaken during the previous 12 months that is governed by this subsection. The notice must identify the type, location and ground area of the new construction or modification. At the time of the annual notification, the permittee shall provide to the department development plans, certified by a professional engineer, for new construction or modification governed by this subsection.
[PL 2013, c. 183, §1 (NEW).]

30. Exemption for construction of new dwelling units at existing development. New construction of dwelling units at an existing development that has been permitted pursuant to this article is exempt from review under this article if:

A. The additional disturbed area not to be revegetated does not exceed 40,000 square feet ground area in any calendar year and does not exceed 80,000 square feet ground area in total; [PL 2025, c. 262, §1 (NEW).]

B. Any new dwelling units to be constructed that are designed to accommodate more than 4 families are connected to a public water and sewer system; [PL 2025, c. 262, §1 (NEW).]

C. The new construction is not contrary to the terms or conditions of the permit, other than by the addition of new disturbed area for dwelling units. An area designated by the permit for storm water management or for natural resource or visual buffers may not be developed under this exemption. Subsurface wastewater disposal systems or wells may not be constructed in an area excluded by the permit for the placement of those systems; and [PL 2025, c. 262, §1 (NEW).]

D. The permittee annually notifies the department of any new construction conducted during the previous 12 months that is eligible for the exemption under this subsection. The notice must identify the type, location and ground area of the new construction. With the annual notification, the permittee shall provide to the department development plans certified by a professional engineer for the new construction undertaken pursuant to this subsection. [PL 2025, c. 262, §1 (NEW).]

When review under this article is required at an existing development permitted pursuant to this article, the permittee shall provide plans for the new development, as well as for any activities that have been previously undertaken pursuant to this subsection. The permittee shall demonstrate that activities undertaken pursuant to this subsection met the requirements for storm water management in effect when the activities were undertaken and that were applicable to the activity considering the entirety of the development.

For purposes of this subsection, "dwelling unit" means any part of a structure that, through sale or lease, is intended for human habitation, including single-family and multifamily housing, accessory dwelling units, condominiums, apartments and time-share units.

[PL 2025, c. 262, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 571, §2 (NEW). PL 1971, c. 476, §3 (AMD). PL 1971, c. 613, §9 (AMD). PL 1971, c. 622, §139 (AMD). PL 1973, c. 423, §10 (AMD). PL 1977, c. 374, §4 (AMD). PL 1979, c. 714 (AMD). PL 1983, c. 369 (AMD). PL 1983, c. 819, §A64 (AMD). PL 1985, c. 70, §2 (AMD). PL 1987, c. 287, §1 (AMD). PL 1987, c. 812, §§14,18 (AMD). PL 1989, c. 769, §§5,6 (AMD). PL 1991, c. 160, §2 (AMD). PL 1993, c. 383, §26 (AMD). PL 1993, c. 383, §42 (AFF). PL 1993, c. 721, §C2 (AMD). PL 1993, c. 721, §H1 (AFF). RR 1995, c. 2, §§97,98 (COR). PL 1995, c. 90, §1 (AMD). PL 1995, c. 287, §5 (AMD). PL 1995, c. 462, §A75 (AMD). PL 1995, c. 493, §§6,7 (AMD). PL 1995, c. 493, §21 (AFF). PL 1995, c. 625, §§A53,54 (AMD). PL 1995, c. 659, §2 (AMD). PL 1995, c. 700, §§8,9 (AMD). PL 1995, c. 704, §§A15-20 (AMD). PL 1995, c. 704, §§C2,3 (AFF). PL 1997, c. 72, §3 (AMD). PL 1997, c. 393, §A45 (AMD). PL 1997, c. 485, §1 (AMD). PL 1997, c. 502, §§9-11 (AMD). PL 1997, c. 502, §18 (AFF). PL 1997, c. 603, §§3,4 (AMD). PL 1997, c. 748, §4 (AMD). PL 1999, c. 468, §§12,13 (AMD). PL 1999, c. 776, §15 (AMD). PL 2001, c. 232, §§18-20 (AMD). PL 2001, c. 406, §17 (AMD). PL 2001, c. 626, §11 (AMD). PL 2003, c. 226, §1 (AMD). PL 2005, c. 217, §1 (AMD). PL 2005, c. 330, §19 (AMD). PL 2005, c. 563, §17 (AMD). PL 2007, c. 292, §28 (AMD). PL 2007, c. 616, §2 (AMD). PL 2009, c. 615, Pt. E, §§19, 20 (AMD). PL 2011, c. 551, §§1-3 (AMD). PL 2011, c. 653, §§20, 21 (AMD). PL 2011, c. 653, §33 (AFF). PL 2011, c. 655, Pt. FF, §13 (AMD). PL 2011, c. 655, Pt. FF, §16 (AFF). PL 2011, c. 655, Pt. JJ, §32 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2011, c. 657, Pt. W, §5, 6 (REV). PL 2011, c. 682, §§31, 32 (AMD). PL 2011, c. 682, §40 (AFF). PL 2013, c. 183, §1 (AMD). PL 2013, c. 405, Pt. B, §5 (AMD). PL 2015, c. 28, §1 (AMD). PL 2021, c. 51, §1 (AMD). PL 2021, c. 123, §§1, 2 (AMD). PL 2025, c. 262, §1 (AMD). PL 2025, c. 388, Pt. D, §42 (AMD). PL 2025, c. 412, §6 (AMD).

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