

CHAPTER 89

AN ACT exempting certain temporary farm structures from the permit and transition area requirements of the “Freshwater Wetlands Protection Act,” and amending P.L.1987, c.156.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 4 of P.L.1987, c.156 (C.13:9B-4) is amended to read as follows:

C.13:9B-4 Exemptions from permit, transition area requirements.

4. The following are exempt from the requirement of a freshwater wetlands permit and transition area requirements unless the United States Environmental Protection Agency's regulations providing for the delegation to the state of the federal wetlands program conducted pursuant to the Federal Act require a permit for any of these activities, in which case the department shall require a permit for those activities so identified by that agency:

a. Normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food and fiber, or upland soil and water conservation practices; construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches; the installation of temporary farm structures with only a dirt or fabric floor, including hoopouses and polyhouses, and any grading or land contouring associated therewith on lands that were actively cultivated on or before July 1, 1988, have been in active agricultural use since then, were in active agricultural use at the time that the temporary farm structures were or are to be erected, and are identified as “ModAg” farmed wetlands on the Wetland Maps promulgated by the Department of Environmental Protection in 1988; construction or maintenance of farm roads or forest roads constructed and maintained in accordance with best management practices to assure that flow and circulation patterns and chemical and biological characteristics of freshwater wetlands are not impaired and that any adverse effect on the aquatic environment will be minimized;

b. Normal harvesting of forest products in accordance with a forest management plan approved by the State Forester;

c. Areas regulated as a coastal wetland pursuant to P.L.1970, c.272 (C.13:9A-1 et seq.);

d. Projects for which (1) preliminary site plan or subdivision applications have received preliminary approvals from the local authorities pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) prior to the effective date of this act, (2) preliminary site plan or subdivision applications have been submitted prior to June 8, 1987, or (3) permit applications have been approved by the U.S. Army Corps of Engineers prior to the effective date of this act, which projects would otherwise be subject to State regulation on or after the effective date of this act, shall be governed only by the Federal Act, and shall not be subject to any additional or inconsistent substantive requirements of this act; provided, however, that upon the expiration of a permit issued pursuant to the Federal Act any application for a renewal thereof shall be made to the appropriate regulatory agency. The department shall not require the establishment of a transition area as a condition of any renewal of a permit issued pursuant to the Federal Act prior to the effective date of this act. Projects not subject to the jurisdiction of the United States Army Corps of Engineers and for which preliminary site or subdivision applications have been approved prior to the effective date of this act shall not require transition areas;

e. The exemptions in subsections a. and b. of this section shall not apply to any discharge of dredged or fill material into a freshwater wetland incidental to any activity

which involves bringing an area of freshwater wetlands into a use to which it was not previously subject, where the flow or circulation patterns of the waters may be impaired, or the reach of the waters is reduced.

2. This act shall take effect immediately and shall also apply to all pending and completed enforcement actions brought by the Department of Environmental Protection.

Approved January 9, 2015.