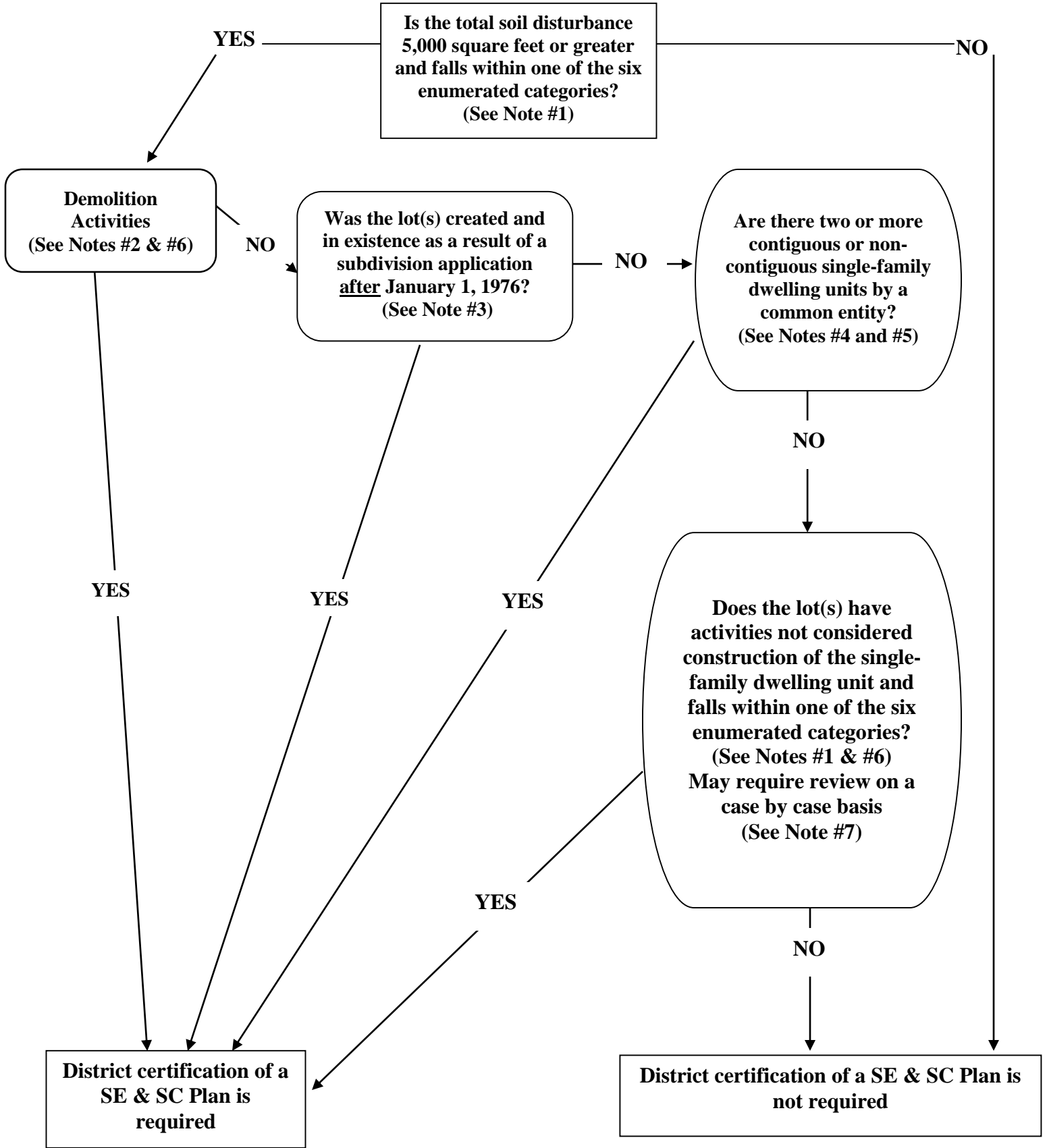


**Definition of a Project for  
 “Single-Family Exemption”  
 Under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39, et seq  
 -Flow Chart-**



## Notes:

1. The threshold determination for applicability of the Act is whether the activity in question will disturb “more than 5,000 square feet of the surface area of land.” N.J.S.A. 4:24-41. If the disturbance threshold is met, the activity will be subject to the act if also falls within one of the six enumerated categories:
  1. The accommodation of construction for which the State Uniform Construction Code (“UCC”) requires a construction permit;
  2. Demolition of one or more structures; (demolition activities) see Administrative Memorandum dated January 3, 2012;
  3. Construction of a parking lot;
  4. Construction of a public facility;
  5. Operation of any mining or quarrying activity; or
  6. Clearing or grading of any land for other than agricultural or horticultural purposes.

N.J.S.A. 4:24-41. Accordingly, any activity that meets the disturbance threshold but does not fall within one of the enumerated categories is not a project is therefore not subject to the Act.

2. Any demolition activity of one or more structures and any associated new disturbance involving more than 5,000 square feet in size, including the construction of one single-family dwelling or other project.
3. **For lots created by a subdivision approved after January 1, 1976:** The construction of a single-family dwelling unit is not exempt from the Act if the Subdivision created two or more single-family dwelling lots. The Act applies regardless of whether all the subdivided lots have been or are being built at the time of application.
4. **For lots created prior to January 1, 1976:** Construction of a single-family dwelling units is exempt unless it is part of concurrent construction of two or more contiguous or non-contiguous single-family dwelling units by a common entity.
5. In sum, the Single-Family Exemption is limited to those individual dwelling units on existing single-family dwelling lots created before the effective date of the Act, January 1, 1976 that are not part of a larger development by a common entity.
6. It is important to note that the Act exempts only the dwelling unit and not the entire lot. The usage of the terms “unit” and “lot” in the Act and the rules is instructive on this point. The Act expressly states that the unit is exempt while the rules recognize that the unit exists on the lot and, utilizing the express language of the Act, draw a distinction as to what lots may contain exempt units. To interpret the rules as extending an exemption of the unit to all activities conducted on the lot would be contrary to the express language of the Act.
7. **For questionable projects:** A District review on a case-by-case basis may be required to determine if the disturbance threshold is met, with the activities falling within one of the six enumerated categories and a District certification of a SE & SC plan is required. **(See Note #1)**

On disturbances that do not clearly fall into one of the six enumerated categories, the District certification of a SE & SC plan is not required.

On disturbances that marginally exceed the threshold with no potential of offsite damage due to soil erosion or sedimentation, the project owner may meet the District certification requirements by agreeing to the statewide adopted SE & SC plan & fee if required.

The Determination of whether the Act applies to activities not considered construction of the single-family dwelling unit on a lot that contains an exempt unit requires an examination of the threshold questions: (1) is there a disturbance of more than 5,000 square feet; and (2) does the activity fall within one of the six enumerated categories? In these cases, the date of subdivision of the lot is not relevant.