

Stormwater Management Rules Applicability and Amendments

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How is Post-construction Stormwater Managed in NJ?

- Stormwater Management rules at N.J.A.C. 7:8
 - Compliance required through permits issued by the NJDEP-Division of Land Use Regulation
 - Direct Implementation by NJDEP
 - Compliance required through MS4 Permits issued by the NJDEP-DWQ-Bureau of Nonpoint Pollution Control
 - Implementation by municipality
 - RSIS for residential projects
 - Stormwater Control Ordinance for non-residential projects

Amendments to Stormwater Management Rules

- Dec. 3, 2018: NJDEP proposed amendments to the Stormwater Management rules.
- Jan. 8, 2019: Public Hearing
- Feb. 1, 2019: Close of 60-day public comment period
- Dec. 3, 2019: NJDEP filed adoption package to OAL
- March 2, 2020: Adoption of Rule
 - One year delayed operative date, effective 3-2-2021
 - Current rules are in effect until 3-1-2021
 - Same timeframe municipalities have to update ordinances in accordance with MS4 permits

What Projects Must Comply?

- “Major Development” means an individual “development,” as well as multiple developments that individually or collectively result in:
 1. The disturbance of one or more acres of land since February 2, 2004;
 2. The creation of one-quarter acre or more of “regulated impervious surface” since February 2, 2004;
 3. The creation of one-quarter acre or more of “regulated motor vehicle surface” since March 2, 2021; or
 4. A combination of 2 and 3 above that totals an area of one-quarter acre or more.
- If reviewed by the municipality
 - Through RSIS – ultimate disturbance of one acre or more
 - Through Stormwater Control Ordinance – as defined in ordinance (but must at least cover projects where the ultimate disturbance is one acre or more)

Rule Layout – Existing/Prior to Adoption

SUBCHAPTER 5. DESIGN AND PERFORMANCE STANDARDS FOR STORMWATER MANAGEMENT MEASURES

7:8-5.1 Scope

7:8-5.2 Stormwater management measures for major development

7:8-5.3 Nonstructural stormwater management strategies

7:8-5.4 Erosion control, groundwater recharge and runoff quantity standards

7:8-5.5 Stormwater runoff quality standards

7:8-5.6 Calculation of stormwater runoff and groundwater recharge

7:8-5.7 Standards for structural stormwater management measures

7:8-5.8 Maintenance requirements

7:8-5.9 Sources for technical guidance

Rule Layout Re-arrangement

SUBCHAPTER 5. DESIGN AND PERFORMANCE STANDARDS FOR STORMWATER MANAGEMENT MEASURES

7:8-5.1 Scope

7:8-5.2 Stormwater management measures for major development

7:8-5.3 ~~Nonstructural stormwater management strategies~~ GI

7:8-5.4 Erosion control, groundwater recharge and runoff quantity standards

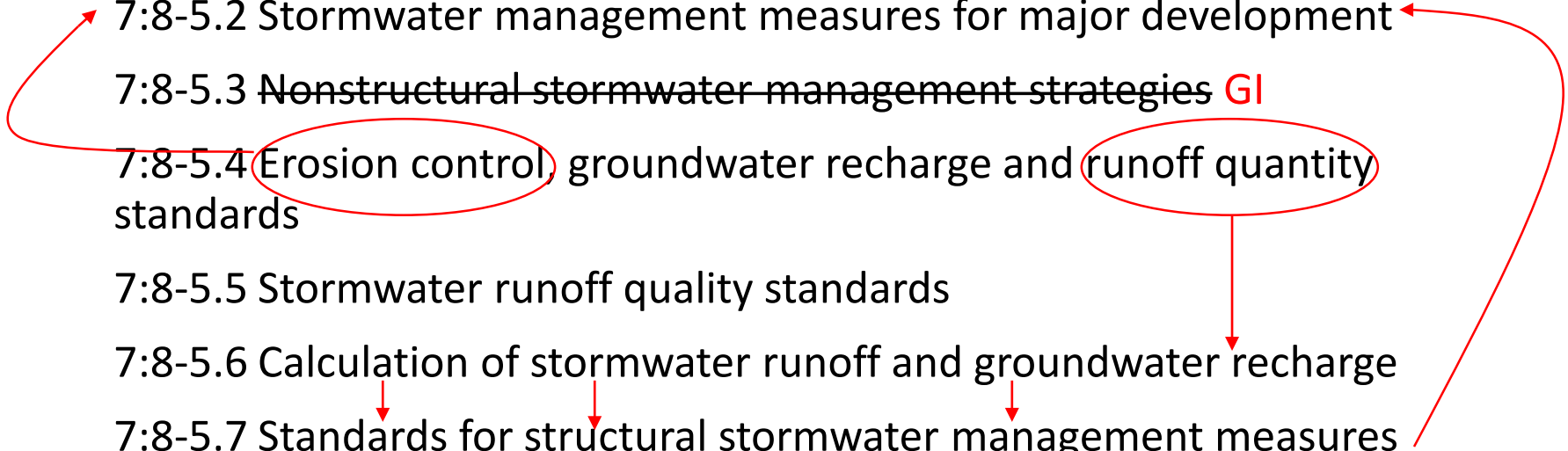
7:8-5.5 Stormwater runoff quality standards

7:8-5.6 Calculation of stormwater runoff and groundwater recharge

7:8-5.7 Standards for structural stormwater management measures

7:8-5.8 Maintenance requirements

7:8-5.9 Sources for technical guidance



Rule Layout – As Adopted

SUBCHAPTER 5. DESIGN AND PERFORMANCE STANDARDS FOR STORMWATER MANAGEMENT MEASURES

7:8-5.1 Scope

7:8-5.2 Stormwater management measures for major development

7:8-5.3 Green infrastructure

7:8-5.4 Groundwater recharge standards

7:8-5.5 Stormwater runoff quality standards

7:8-5.6 Stormwater runoff quantity standards

7:8-5.7 Calculation of stormwater runoff and groundwater recharge

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7:8-5.9 Sources for technical guidance

Green Infrastructure Definition

N.J.A.C. 7:8-1.2

Means a stormwater management measure that manages stormwater close to its source by:

1. Treating stormwater runoff through infiltration into subsoil;
2. Treating stormwater runoff through filtration by vegetation or soil; or
3. Storing stormwater runoff for reuse.

Green Infrastructure Standard

N.J.A.C. 7:8-5.3

- GI BMPs must be used to satisfy recharge, quantity, and quality
 - Small-scale (limited drainage area) for recharge and quality
- 3 Tables identifying the performance of each BMP in meeting the 3 standards
 - Table 5-1: Recharge, Quality, and Quantity Control
 - Table 5-2: Quantity Control
 - Table 5-3: Recharge, Quality, and Quantity Control ONLY with Waiver or Variance
- Maintain existing ability to propose an alternative stormwater design. Alternative design must meet GI definition and must meet drainage area limitation if similar to BMP with limit.

Table 5-1: BMPs for recharge, quantity, and quality

| Best Management Practice | Quality TSS removal rate (percent) | Quantity | Recharge | Minimum separation from seasonal high water table (feet) |
|---|--|----------|----------|--|
| Cisterns | 0 | Yes | No | - |
| Dry Wells | 0 | No | Yes | 2 |
| Grass Swales | 50 or less | No | No | 2 |
| Green Roofs | 0 | Yes | No | - |
| Manufactured Treatment Device (MTDs) | 50 or 80 | No | No | Dependent upon the device |
| Pervious Paving Systems | 80 | Yes | Yes | 2 |
| | | | No | 1 |
| Small-scale Bioretention Systems | 80 or 90 | Yes | Yes | 2 |
| | | | No | 1 |
| Small-scale Infiltration Basins | 80 | Yes | Yes | 2 |
| Small-scale Sand Filters | 80 | Yes | Yes | 2 |
| Vegetative Filter Strips | 60-80 | No | No | - |

Drainage area limitation applies to: dry wells, MTDs, pervious paving system, and small-scale bioretention, infiltration, and sand filters.

Table 1 only includes MTDs that meet the definition of GI

Table 5-2: BMPs may only be used for quantity

| Best Management Practice | Quality TSS removal rate (percent) | Quantity | Recharge | Minimum separation from seasonal high water table (feet) |
|--------------------------------------|--|----------|----------|---|
| Bioretention Systems | 80 or 90 | Yes | Yes | 2 |
| | | | No | 1 |
| Infiltration Basins | 80 | Yes | Yes | 2 |
| Sand Filter | 80 | Yes | Yes | 2 |
| Standard Constructed Wetlands | 90 | Yes | No | N/A |
| Wet Ponds | 50-90 | Yes | No | N/A |

Wet ponds used under Table 2 must be designed to have native vegetation and a reuse component

Table 5-3: BMPs may only be used with waiver

| Best Management Practice | Quality TSS removal rate (percent) | Quantity | Recharge | Minimum separation from seasonal high water table (feet) |
|---------------------------------|---|-----------------|-----------------|---|
| Blue Roofs | 0 | Yes | No | N/A |
| Extended Detention Basins | 40-60 | Yes | No | 1 |
| Manufactured Treatment Device | 50 or 80 | No | No | Dependent upon the device |
| Sand Filters | 80 | Yes | No | 1 |
| Subsurface Gravel Wetlands | 90 | No | No | 1 |
| Wet ponds | 50-90 | Yes | No | N/A |

Water Quality – Motor Vehicle Surface

- The water quality standard will apply to motor vehicle surface instead of impervious surface
 - Rule does not require roofs or sidewalks to be treated – consistent with current implementation
 - Requires pervious motor vehicle surfaces to be treated – consistent with scientific studies
- Include in definition of major development
 - “regulated motor vehicle surface”

Definitions to Clarify Applicability

N.J.A.C. 7:8-1.2

- Added definition of “regulated motor vehicle surface”
- Added definition of “regulated impervious surface”
- Definitions of regulated motor vehicle surface and regulated impervious surface will include FAQ 10.2 (newly collected impervious surface and changes to existing drainage systems count as “new”)

Clarification of Applicability

- Require quantity, quality, and groundwater recharge to be met in each drainage area on-site (unless they converge before leaving the property)
 - N.J.A.C. 7:8-5.2(l)
- Move mounding analysis requirement from recharge standard to apply to all infiltration BMPs
 - N.J.A.C. 7:8-5.2(h)
 - Chapter 13 of BMP Manual

Deed Notice

- Remove rule requirement for conservation restriction, or equivalent, for nonstructural strategies
- Maintain existing requirement that maintenance plans be recorded on deed (new N.J.A.C. 7:8-5.2(m)) and, additionally, must now include:
 - Description of the BMP(s); and
 - Location information for the BMP(s)
- Provide a pathway for property owner to alter or replace a BMP provided review agency ensures quantity, quality, and recharge will be maintained. (new N.J.A.C. 7:8-5.2(n))

CSO Related Changes

- Clarify that water quality treatment is required for discharges into combined sewer systems
 - New N.J.A.C. 7:8-5.5(c)
- Clarify that water quantity control is required in tidal areas except discharges directly into lower reach of major tidal waterbodies
 - New N.J.A.C. 7:8-5.6(b)4
- Create the option for a community basin, which will allow several properties in a CSS community to use a single large basin for quantity control
 - Other standards must still be met on-site (including GI)
 - New N.J.A.C. 7:8-4.2(c)14

BMP Manual Changes

- Finalized new chapter on groundwater mounding (chapter 13)
- Released draft for public comment
 - Revised chapter on calculations (chapter 5)
 - Allows infiltration in GI BMPs
 - Revised soil testing (chapter 12)
 - Adds new soil testing requirements for distributed GI systems
- Revised model ordinance
- Additional changes to BMPs coming when chapter 5 is finalized

Existing Variance

N.J.A.C. 7:8-4.6

- Municipality may approve a variance or exemption if:
 - Municipal Stormwater Management Plan contains a mitigation plan:
 - that identifies what measures are necessary to offset the deficit created by granting the variance
 - ensures mitigation happens in the same drainage area and for the performance standard for which variance is granted
 - Municipality submits a written report to county review agency and DEP describing the variance or exemption and the required mitigation

Adopted Variance

N.J.A.C. 7:8-4.6

- Municipality may approve a variance if Applicant demonstrates:
 - Technically impracticable to meet any one or more of the design and performance standards on site
 - Technical impracticable exists only when the standard can not be met for engineering, environmental, or safety reasons
 - That the proposed design achieves maximum compliance with the design and performance standard
- Approval of variance applies to individual drainage area and design and performance standard

Adopted Variance – Mitigation

N.J.A.C. 7:8-4.6

- Mitigation:
 - selected from municipal mitigation plan or proposed by applicant, provided it meets the criteria within the municipal mitigation plan
 - be approved no later than preliminary or final site plan approval of the major development
 - be located in the same HUC 14 as the portion of the major development that was granted the variance
 - be constructed prior to or concurrent with the major development
 - comply with the green infrastructure standards at N.J.A.C. 7:8-5.3
 - Applicant or party responsible for the maintenance of the major development shall be responsible for maintenance of mitigation
 - Maintenance responsibility may only be transferred to a public agency, with a written agreement submitted to the review agency
- Approved variance must be submitted to county review agency and DEP within 30 days of approval

Adopted Variance – Mitigation

N.J.A.C. 7:8-4.6

- If variance is from green infrastructure
 - Mitigation project must provide green infrastructure BMPs to manage an equivalent or greater area and amount of impervious surface than the area of major development granted the variance
 - Vegetative filter strips and grass swales excluded as mitigation measures if used without other GI BMPs
 - GI BMPs used for mitigation must be sized to manage the Water Quality Design Storm (at a minimum)
 - GI BMPs used for mitigation are subject to a the drainage area limitation

Questions – ask in the chat window

Think of one later?

ask any time:

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