

52 N.J.R. 1255(a)

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RULE PROPOSALS

Reporter

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Interested Persons Statement

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of [N.J.S.A. 52:14B-3](#). An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at [N.J.A.C. 1:30-6.3](#). The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

Agency

COMMUNITY AFFAIRS >

DIVISION OF CODES AND STANDARDS

Administrative Code Citation

Proposed Amendments: [N.J.A.C. 5:21-4.4](#), [4.16](#), [5.2](#), [7.8](#), [5:21-7 Appendix B](#), and [8.1](#)

Text

Residential Site Improvement Standards

Stormwater Management

Authorized By: Lt. Governor Shelia Y. Oliver, Commissioner, Department of Community Affairs.

Authority: [N.J.S.A. 40:55D-40.4](#).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2020-058.

Submit written comments by August 14, 2020, to:

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The agency proposal follows:

Summary

Pursuant to P.L. 1993, c. 32, the Site Improvement Advisory Board is required to review the Residential Site Improvement Standards (RSIS) and make recommended changes on an annual basis. This rulemaking contains the Board's recommended changes for 2019. They are as follows:

Streets and Parking

Two amendments are proposed to clarify parking requirements for new residential development. The first amendment updates Table 4.4 with a new footnote (footnote "d") to specify that assisted living facilities, as defined by the New Jersey Department of Health at [N.J.A.C. 8:36-1.3](#), are within the scope of the RSIS. The second amendment, at [N.J.A.C. 5:21-4.16\(e\)](#), would deal with emergency access for large surface parking lots.

This standard requires large lots with more than 100 spaces to have more than one access. The proposed language specifies the second access is for emergency vehicles only, unless the reviewer agrees that residents and visitors also may use this second access.

Water Supply

At [N.J.A.C. 5:21-5.2](#), Table 5.1 specifies design standards for sizing water supply systems for new residential development. The demand rates are from the 1987 model ordinance prepared for the Department of Community Affairs (Department) by researchers at Rutgers University. These reflect household sizes and water uses in the 1970s. Since that time, households have gotten smaller and appliances use less water; the proposed new table reflect these trends. The changes lower demand rates and are based on an updated version of the table recommended by the New Jersey Water Advisory Council.

[N.J.A.C. 5:21-8.1](#) Referenced Standards

A sentence would be added to the introduction to Subchapter 8 to clarify that designers and reviewers may use more recent editions of the authoritative sources when they agree that such editions are appropriate.

Additionally, proposed amendments at N.J.A.C. 5:21-7 update the titles of referenced standards and align Appendix B with language currently adopted by the Department of Environmental Protection. These changes are non-substantive and do not create any new or additional requirements.

As the Department of Community Affairs has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to [N.J.A.C. 1:30-3.3\(a\)5](#).

Social Impact

The RSIS adopted by the Department of Community Affairs (DCA) sets mandatory, Statewide standards for streets, sidewalks, parking, sewer and water systems, and stormwater management facilities for new residential development. The proposed changes update standards, make them consistent with other State rules, specifically, the Department of Health's definition of assisted living as specified at [N.J.A.C. 8:36-1.3](#), stormwater management requirements adopted as Surface Water Quality Standards at N.J.A.C. 7:8B, and the Flood Hazard Area Control Act Rules at [N.J.A.C. 7:13](#). Eliminating inconsistencies among State rules has a general social benefit: to provide for safe, predictable, and uniform residential development standards.

Economic Impact

The Department does not anticipate there will be a perceivable economic impact; RSIS stormwater standards will be made consistent with other State rules.

Federal Standards Statement

No Federal standards analysis is required. The changes are not being proposed under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or State statute that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Department does not anticipate the generation or loss of jobs as a result of these changes.

Agriculture Industry Impact

The proposed amendments do not affect the agriculture industry.

[page=1256] **Regulatory Flexibility Statement**

These proposed amendments do not impose new compliance, reporting, or recordkeeping requirements on residential developers, most of which are "small businesses" within the meaning of the Regulatory Flexibility Act, [N.J.S.A. 52:14B-16](#) et seq., or upon any other "small business." The proposed amendments are not expected to cause small businesses to need to employ professional services not already required for compliance with the RSIS.

Housing Affordability Impact Analysis

The Department does not expect the proposed amendments to affect housing costs or the affordability of housing in the State. The proposed amendments update the RSIS requirements, make them consistent with other State rules, and clarify standards so they are better understood and administered.

Smart Growth Development Impact Analysis

The Department does not expect that the proposed amendments will have any impact upon housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments update the RSIS requirements, make them consistent with other State rules, and clarify standards so they are better understood and administered.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 4. STREETS AND PARKING

5:21-4.14 Parking: number of spaces

(a)-(f) (No change.)

TABLE 4.4
PARKING REQUIREMENTS FOR RESIDENTIAL LAND USES^a

<u>Housing unit type/size^b</u>	<u>Parking requirement per dwelling unit</u>
...	
Assisted living ^d	0.50

Notes:

^{a-c} (No change.)

^dAs defined by the New Jersey Department of Health at [N.J.A.C. 8:36-1.3](#), as a facility with apartment-style housing and congregate dining, and other assisted living services available when needed. At a minimum, apartment units have one room, a private bathroom, a kitchenette, and a lockable entrance door.

Source:

(No change.)

5:21-4.16 Parking lots

(a)-(d) (No change.)

(e) Where sole access to dwelling units is via a parking lot, the following features shall be provided:

1.-2. (No change.)

3. Parking lots having more than 100 spaces shall have a minimum of two means of ingress and egress, or be provided with a divided-type entrance. **The primary function of the second or divided-type entrance is emergency access. With reviewer approval, the design may allow residents and visitors to use the second access on a full-time or part-time basis.**

SUBCHAPTER 5. WATER SUPPLY

5:21-5.2 Capacity

(a)-(e) (No change.)

[TABLE 5.1
WATER DEMAND/GENERATION BY TYPE /SIZE OF HOUSING

Type/size <u>housing</u>	Number of <u>residents</u>	Residential Water Demand ^a (daily) <u>(gallons per day)</u>
Single-family detached		
2 bedroom	2.13	215
3 bedroom	3.21	320
4 bedroom	3.93	395
5 bedroom	4.73	475
Garden Apartment		
1 bedroom	1.57	120
2 bedroom	2.33	175
3 bedroom	3.56	270

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Townhouse		
1 bedroom	1.69	125
2 bedroom	2.02	150
3 bedroom	2.83	210
4 bedroom	3.67	275
High-rise		
studio	1.07	80
1 bedroom	1.34	100
2 bedroom	2.14	160
Mobile home		
1 bedroom	1.73	130
2 bedroom	2.01	150
3 bedroom	3.47	260

Notes: ^a Based on 100 gallons per person per day for single family detached units and 75 gallons per person per day for other housing types (rounded).

Source: U.S. Census, Public Use File--New Jersey (Units built 1975-1980).]

Table 5.1
Water Demand by House Type and Size

<u>House type and size</u>		<u>Water</u>
		<u>Demand/</u>
		<u>gallons</u>
		<u>per day</u>
detached	Single-family	
	2 bedroom	150
	3 bedroom	225
	4 bedroom	395

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	5	475
bedroom		
Townhouse		
	1	120
bedroom		
	2	140
bedroom		
	3	200
bedroom		
	4	255
bedroom		
Low and mid-rise (up to nine stories)		
	1	95
bedroom		
	2	140
bedroom		
	3	215
bedroom		
High-rise (10 or more stories)		
		65
studio		
	1	80
bedroom		
	2	130
bedroom		
Mobile home		
	1	120
bedroom		
	2	140
bedroom		
	3	245
bedroom		

Source: "Water Needs Through 2040 for New Jersey Public Community Water Supply Systems," by Daniel Van Abs, Jiayil Ding, and Eric Pierson, Rutgers University, 2018. Study commissioned by the New Jersey Department of Environmental Protection.

SUBCHAPTER 7. STORMWATER MANAGEMENT

5:21-7.8 Detention basins and other stormwater management facilities

(a)-(c) (No change.)

(d) The following list of general structural criteria shall be used to design stormwater detention basins.

1. (No change.)

2. Detention components: emergency spillways, as follows:

i.-ii. (No change.)

iii. Where maximum velocities exceed the allowable velocities for soil stability as determined in the Standards for Soil Erosion and Sediment Control in New Jersey, at [N.J.A.C. 2:90](#), suitable lining should be provided. Design engineers also may check maximum velocities in emergency spillways based on the velocity of the peak flow in the spillway resulting from routing the spillway design storm hydrograph as defined in the NJ DEP Dam Safety Rules ([N.J.A.C. 7:20](#)) for all detention facilities classified as dams and the 100-year storm hydrograph for all other facilities. Where maximum velocities exceed those contained in Table 7.5 below, suitable lining shall be provided. Linings shall meet specifications required in Hydraulic Engineering Circular No. 15-Design of [Stable] **Roadside** Channels with Flexible Linings, published by the U.S. Department of Transportation, Federal Highway Administration, or in the Standards for Soil Erosion and Sediment Control in New Jersey as cited above.

TABLE 7.5
(No change.)

3.-6. (No change.)

(e) (No change.)

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DEP Stormwater Management Rules Referenced in N.J.A.C. 5:21-7: N.J.A.C. 7:8-5 and 6
and other Relevant Portions of the Stormwater Rules

...

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

(a) This section contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

1. (No change.)

2. The minimum design and performance standards for groundwater recharge are as follows:

i.-ii. (No change.)

iii. The following types of stormwater shall not be recharged:

(1) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than 'reportable quantities' as defined by the United States Environmental Protection Agency (EPA) at [40 CFR 302.4](#); areas where recharge would be inconsistent with [Department approved] remedial action work plan or landfill closure plan; and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

(2) (No change.)

iv. (No change.)

3. (No change.)

(b) (No change.)

...

SUBCHAPTER 8. REFERENCED STANDARDS

5:21-8.1 Referenced standards

(a) The following is a list of the standards referenced in this chapter. The standards are listed by the promulgating agency of the standard, the standard identification, the edition of the standard, the title of the standard, and the section(s) of this code that reference(s) the standard. The standards listed in this chapter are not adopted or to be used in their entirety unless the rules specifically so state. The use of the standards included in this chapter is limited to those specific areas of the standard for which this chapter directs the user to the standard. **Designers and reviewers may agree to use more recent editions.**

1.-19. (No change.)