

FAQS FOR GREEN INFRASTRUCTURE RULE

Q: Who do the Stormwater Management rules apply to?

The Stormwater Management rules apply to all major development. The amended rule defines “Major development” as any 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. The same surface shall not be counted twice when determining if the combination area equals one-quarter acre or more.

Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually meet any one or more of conditions 1, 2, 3, or 4 above. Projects undertaken by any government agency that otherwise meet the definition of “major development” but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered “major development.”

In addition, local government units may impose a stricter threshold than what is defined as major development in the amended rule. Local government units will need to adopt ordinances specifying whether they are using this State standard or a more stringent threshold requiring green infrastructure.

Q: What amendments to the Stormwater Management rules did the Department of Environmental Protection (Department) adopt?

A: The Department adopted amendments to the Stormwater Management rules, N.J.A.C. 7:8, to replace the current requirement that major developments incorporate nonstructural stormwater management strategies to the “maximum extent practicable” to meet groundwater recharge standards, stormwater runoff quantity standards, and stormwater runoff quality standards, with a requirement that green infrastructure (GI) be utilized to meet these same standards.

Q: What are some of the major changes to the current rule?

A: The adopted amendments clarify and modify the definition of major development, which defines the scope of projects to which these rules apply. The Department adopted changes to apply the total suspended solids (TSS) removal requirement to the runoff from motor vehicle surfaces and to eliminate the TSS removal requirement as it applies to runoff from other impervious surfaces not traveled by automobiles, such as rooftops and sidewalks. The Department also adopted several changes that will improve water quality and stormwater management improvements in communities with combined sewer systems. This adoption makes changes to existing definitions, such as the definition of “Tidal Flood Hazard Area,” and adds new definitions, such as “Green Infrastructure” and “New Jersey Stormwater BMP Manual.” Other adopted amendments make other alterations related to the changes

identified above, as well as other minor changes to other provisions in the Stormwater Management rules. Additionally, the Department adopted minor amendments to the Coastal Zone Management Rules, the Freshwater Wetlands Protection Act Rules, the Flood Hazard Area Control Act Rules, the New Jersey Pollutant Discharge Elimination System rules, and the Highlands Water Protection and Planning Act Rules in order to update cross-references and incorporate other changes consistent with the amendments to the Stormwater Management rules.

Q: How does the Department define GI in the amended Stormwater Management rules?

A: “Green infrastructure” 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.

For more information on GI visit our website at <https://www.nj.gov/dep/gi/index.html>.

Q: How is GI different from more traditional stormwater management methods?

A: Green Infrastructure best management practices (BMPs) are intended to mimic natural hydrologic conditions and, thus, typically incorporate infiltration and/or vegetation more than traditional stormwater management methods.

Q: What are the benefits of GI versus more traditional methods of managing stormwater?

A: The main stormwater related benefit of GI vs traditional methods of managing stormwater is stormwater volume reduction. While, as noted in the definition of GI at N.J.A.C. 7:8-1.2, there are three mechanisms by which GI systems can work, each of the three results in at least some portion of the volume of stormwater being retained by the BMP. Thus, that portion of the stormwater (and any pollutants it would have carried) never reaches downstream conveyance systems or watercourses. This will result in both reduced flooding and improved water quality in watercourses, since the retained portion of the stormwater never reaches the downstream watercourse. By contrast, more traditional stormwater management systems do not generally retain a significant amount of stormwater runoff. GI also results in numerous non-stormwater co-benefits to communities, including reduction in urban heat island effect, decreased energy use, removal of pollutants from the air through greater utilization of vegetation, beautification of public spaces, and increased property values.

Q: What are some examples of GI Best Management Practices (BMPs) and where can I find information about BMPs?

A: The most widely used GI stormwater BMP is the rain garden, which is a type of small-scale bioretention system. Other examples of green infrastructure BMPs include green roofs, dry wells, pervious paving systems, infiltration basins, cisterns, and even certain types of manufactured treatment devices. For more information on BMPs, please see the New Jersey Stormwater BMP Manual, which is available at https://www.njstormwater.org/bmp_manual2.htm.

Q: Does the rule have limitations on the drainage area to GI BMPs? If so, why?

A: Yes. The amended rules require stormwater runoff to be managed by GI BMPs with smaller scale GI BMPs required in most cases. The drainage area limits are intended to ensure that the GI BMPs utilized are small scale which is important in ensuring that the BMP maintains or mimics natural hydrology and manages stormwater runoff close to its source. Drainage area limits are applicable to dry wells (1 acre), manufactured treatment devices (2.5 acres), small-scale bioretention systems (2.5 acres), small-scale infiltration basins (2.5 acres), small-scale sand filters (2.5 acres), and pervious paving systems (area of additional inflow cannot exceed three times the area occupied by the BMP.)

Q: Can you use GI in urban areas?

A: Yes, while developing in urban areas comes with additional challenges, there are a wide variety of GI BMPs that can be utilized in urban areas. The Department expects that the implementation in urban settings will realize co-benefits such as reductions in the urban heat island effect, decreased energy use, removal of pollutants from the air through greater utilization of vegetation, beautification of public spaces, and increased property values in areas where they are most needed. For more information on the specific limitations of BMPs, please see the New Jersey Stormwater BMP Manual, which is available at https://www.njstormwater.org/bmp_manual2.htm.

Q: Does GI cost more to construct, or operate and maintain?

A: GI is widely recognized to be a cost-effective and resilient approach to managing stormwater while simultaneously providing environmental, social, and economic co-benefits. Since GI is typically distributed and small scale, developers may have to install multiple GI BMPs on a single major development site to manage stormwater, whereas under the current rules fewer larger stormwater management BMPs may be sufficient. Costs will vary depending on the scope of the project and the BMPs chosen. However, in general the Department expects no significant increased cost to property owners who assume the cost of operation and maintenance of GI.

Q: Can I get funding for GI?

A: Yes, the NJ Water Bank provides low interest loans through the clean water state revolving fund to owners of publicly-owned treatment works with GI projects that help protect, maintain or improve water quality. Private entities are eligible through public conduit borrowers. Project sponsor eligibility has also been expanded to private colleges and universities that are interested in sponsoring nonpoint source pollution projects. Combined Sewer Overflow (CSO) abatement projects utilizing GI are eligible to receive principal forgiveness (grant like funding) for up to 50% of project costs (principal forgiveness capped at \$2Million). Water quality restoration grants are also awarded by the Department to fund watershed restoration activities and initiatives around New Jersey that address [nonpoint source pollution](#) (NPS). Funding sources include USEPA pass-through grants issued under [Section 319\(h\)](#) of the federal Clean Water Act (CWA) and other federal and State funds that may be available for NPS-related water quality restoration activities. For more information on available financing, visit our website at https://www.nj.gov/dep/gi/financial_assistance.htm.

Q: Do the rules help address combined sewer overflows?

A: The adopted rules support water quality and stormwater management improvements in communities with combined sewer systems (CSS). The adopted rules clarify the applicability of the water quality standards for discharges into a CSS (N.J.A.C. 7:8-5.5(c)); require quantity control in tidal flood hazard areas (unless the design engineer demonstrates through hydrologic and hydraulic analysis that the increased rate, increased volume, or both of stormwater runoff will not result in additional flood damage below the point of discharge (N.J.A.C. 7:8-5.6(b)4)); expand the municipality's planning flexibility for CSOs and flood control (N.J.A.C. 7:8-4.2(c)14); and provide differing applicability of GI requirements to sewer separation projects to make them more feasible (N.J.A.C. 7:8-5.3(e)). For information regarding the evaluation of GI as part of the development of Long Term Control Plans to address CSOs can be found at

https://nj.gov/dep/dwg/pdf/CSO_Guidance_Evaluating_Green_Infrastructure_A_CSO_Control_Alternative_for_LTCPs.pdf

Q: Are manufactured treatment devices (MTDs) still allowed? If so, when and where?

A: Yes. The amendments do not specifically restrict the use of MTDs, instead they require the use of GI. While most MTDs do not qualify as GI, there are MTDs that do. Furthermore, MTDs for road projects with a waiver from strict compliance, pre-treatment of certain other BMPs, retrofits of existing BMPs, and projects that are not major development will be unaffected by these changes. For a listing of Department certified MTDs, please see <https://www.njstormwater.org/treatment.html>.

Q: When do these amendments become operative?

A: These amendments will become operative on March 2, 2021.

Q: Do municipalities have to revise their stormwater control ordinances?

A: Yes. The Stormwater Management rules represent the minimum standard for municipal stormwater control ordinances. Therefore, municipal stormwater control ordinances must be revised to be consistent with these amendments.

Q: How long do municipalities have to revise their ordinances?

A: Municipalities have until March 3, 2021 for their revised ordinance to become effective. However, a municipality can choose to make their ordinance effective sooner.

Q: Will permit applications be "grandfathered"?

A: For applications submitted to the Department's Division of Land Use Regulation, any application declared complete for review prior to March 2, 2021 will be subject to the existing Stormwater Management rule. Similarly, any application submitted to a municipality that includes both the application form and all accompanying documents required by ordinance will be subject to the ordinance in effect at the time of application.

Q: Is the Department planning additional amendments to the Stormwater Management rules?

A: As indicated in the notice of proposal Summary, 50 N.J.R. at 2376, the Department is in the process of seeking input regarding potential further amendments to the Stormwater Management rules. In response to the notice of proposal associated with these adopted amendments, the Department received comments that were beyond the scope of anything proposed in this rulemaking. The Department will consider the input provided by those comments as it determines what further amendments to the rules may be appropriate in a future rulemaking. Information from the stakeholder meetings can be found at <https://www.nj.gov/dep/workgroups/>.

Q: Do the rules address climate change? Are you going to do more?

A: In part, the adopted amendments are intended to make the State more resilient to storm and flood impacts from climate change through the use of GI. Additionally, GI BMPs will help fight against climate change by creating carbon-sequestering green space. However, the development of a second phase of rule changes is underway to advance Governor Murphy's climate change goals called for in the [NJ-Protecting Against Climate Threats \(NJ-PACT\) initiative](#) directed by [Executive Order 100](#). The DEP anticipates proposing these amendments this year.