

N.J.A.C. 7:8

NEW RULES

OVERVIEW and QUESTIONS

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August 25, 2020

Topics

- Updated Stormwater Management rules under N.J.A.C. 7:8
- NJDEP's Ongoing Stormwater Initiatives

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 Rules
 - 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

Rules 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

7:8-5.8 Maintenance requirements

7:8-5.9 Sources for technical guidance

Green Infrastructure Definition

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

GI 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
- 3 Tables identifying the performance of each BMP in meeting the 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
- Maximum Contributory Drainage Area Limitations specified
- 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 that may only be used if a waiver or variance is granted

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 applies to motor vehicle surface instead of impervious surface
 - Rule text 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
- Included in definition of major development

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”
- Changed definition of major development
 - 1 acre of disturbance; or
 - $\frac{1}{4}$ acre of regulated impervious surface; or
 - $\frac{1}{4}$ acre of regulated motor vehicle 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

- 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))

Other Rule 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
- Creates the option for a community basin to address flooding issues within CSS communities
 - Other standards must still be met on-site (including GI)
 - New N.J.A.C. 7:8-4.2(c)14

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

Adopted Variance – Mitigation

N.J.A.C. 7:8-4.6(a)3

- 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 entity assuming maintenance responsibility for the associated major development shall be responsible for maintenance, 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(a)3

- If variance is from green infrastructure standards
 - 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
 - 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 the specified drainage area limitations

Adopted Variance – Mitigation

N.J.A.C. 7:8-4.6(a)3

- If variance is from groundwater recharge standards
 - mitigation project must equal or exceed GW recharge deficit
- If variance is stormwater runoff quality standards
 - mitigation project must provide sufficient TSS removal to equal or exceed the deficit resulting from the variance
- If variance is stormwater runoff quantity standards
 - mitigation project must provide equivalent peak flow rate attenuation

N.J.A.C. 7:8 Rules Adoption

- Link to Rules at <https://www.nj.gov/dep/rules/adoptions.html>



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Notice of Rule Adoptions

The following rule adoptions are scheduled for publication in the NJ Register on the publication dates listed below. The listing is sorted by publication date, with the most recent adoption listed first.

Publication Date	Adoption Name	Proposal Date	Document Links
3/2/2020	Stormwater Management rules, N.J.A.C. 7:8, Green Infrastructure (pdf)	12/3/2018	Adoption Document Proposal Notice Proposal Document

Other NJDEP Stormwater Related Actions

- BMP Manual Updates
 - Chapter 5: *Stormwater Management Quantity and Quality Standards and Computations* – Addressing Comments
 - Chapter 12: *Soil Testing Criteria* – Addressing comments 5/1/20
 - Chapter 13: *Groundwater Table Hydraulic Impact Assessments for Infiltration BMPs* - Finalized
 - https://www.njstormwater.org/bmp_manual2.htm
- NJDEP Letters & Emails to MS4 Permittees on 3/2/20:
 - SCO must be revised and effective by 3/3/2021
- Revised/Updated Model SCO Posted on DEP web page
 - https://www.njstormwater.org/bmp_manual/NJ_SWBMP_D.pdf
- On-going MS4 Audits to Review Compliance

Summary

- Updated Rules Adopted 3/2/2020
- One year delay in Operative Date to 3/2/2021
- Requirement to Use Green Infrastructure
 - Manage Stormwater Runoff close to its source
 - Drainage area limitations for GI BMPs
- Updated/Revised Definitions
- Clarifications
 - Meet Standards On-site
 - Mounding Analysis
- Deed Notice Requirements
- Mitigation
- Stormwater Control Ordinance Updates Required

Questions?

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