Submitted Ideas to Discuss at November 29, 2018 Meeting NOTE: Not a full list of submitted ideas

1. Nature of the Change:

Inclusion of small sites (< 1 acre) in the regulatory program

Why you are seeking the change/the benefits this change will bring:

The current rules only apply to sites meeting the definition of "major development," meaning sites that disturb 1 acre of land or increase impervious surface by one-quarter acre.

While small sites individually do not contribute large quantities of pollution, their cumulative impact on a watershed can be significant. To address these impacts, we urge DEP to extend stormwater management requirements to sites smaller than 1 acre.

Many jurisdictions in New Jersey have already demonstrated the practicability of applying stormwater requirements to small sites. For example, the Township of Bernards applies its ordinance to projects disturbing 2,500 square feet, or creating 1,000 square feet of new impervious surface. Princeton recently adopted an ordinance reducing the thresholds for major projects to half an acre of soil disturbance or 5,000 square feet of impervious surface.

Lowering the applicability threshold throughout the state would result in greater pollution control that will help to restore New Jersey's impaired waterways, as well as preserve waterways still in good condition.

Rule Citation: 7:8-1.2

2. Nature of the Change:

Trigger for required design and performance standards: Should include redevelopment projects, subdivisions, and "non-major" projects, with trigger reduced from "0.25 acre new impervious / 1.0 acre disturbed" to something like "400 square feet new impervious / 0.5 acre disturbed"

Why you are seeking the change/the benefits this change will bring:

NJ is closest state in USA to "buildout." If we only deal with new, "Major" developments, we will never attain the water quality standards we are shooting for.

Rule Citation: 7:8-1.2

3. Nature of the Change:

Revise the definition of major development to include smaller sites and less disturbance than the current "1-acre of disturbance or 1/4 acre of new impervious cover" standard.

Why you are seeking the change/the benefits this change will bring:

Smaller building sites and smaller lots are more common in urban areas where (a) most growth occurs and (b) stormwater runoff tends to cause the most serious problems related to pollution and flooding. The current major development definition would exempt a significant percentage

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of redevelopment projects, and thus would not capture excellent opportunities to improve overall outcomes.

Rule Citation:

4. Nature of the Change:

Definition of Major Development when DLUR Permits are not required

Why you are seeking the change/the benefits this change will bring:

The definition of "Major Development" should be clarified in the rules. A distinction should be made for when a DLUR permit is needed (SWM trigger is one acre or more of land disturbance or 0.25 acre or more increase in impervious surface) and for when a DLUR permit is not needed (SWM trigger is one or more acre of land disturbance per NJPDES Highway Agency and Public Complex Stormwater General Permit requirements, which are based on NPDES criteria). The NJPDES Highway Agency Stormwater Permit applies to the NJDOT and to counties and other highway agencies.

However, under the Tier A/Tier B Municipal Stormwater General Permits, "Major Development" may include additional development defined as such by a municipality's stormwater control ordinance. Language should be provided in these permits or the SWM rule to clarify that the major development definition is only applicable to development entities that are subject to a municipality's Stormwater Control Ordinance and not to other entities that are building within that municipality.

Rule Citation: 7:8-1.2

5. Nature of the Change:

Dams (i.e. those regulated by dam safety) should be made <u>exempt</u> from SWM rules entirely (as they are from the FHACA rules).

Why you are seeking the change/the benefits this change will bring:

Open Cell ACBM have an open graded stone underneath so there is no runoff, but even closed cell ACBM or formed concrete slope armor should not count towards either 1 acre or ¼ acre triggers. Dams are not supposed to have trees on them, but due to lack of maintenance they almost always have trees that need to be removed, which in theory generate runoff (although not really) if you do a pre vs post runoff calculation. Dams almost always have a high water table within the embankment, so there also isn't any groundwater recharge. Even if you don't use a surface armor, and instead use vertical sheeting, you are reducing the final footprint of the dam, but in some cases creating more open water surface areas which in turn theoretically produces runoff (but not really).

Rule Citation:

6. Nature of the Change:

Requirement to retain on-site, with no discharge, the volume from the water quality design storm (1.25 inches)

Why you are seeking the change/the benefits this change will bring:

The current stormwater standards are inadequate to protect local waterways or mitigate urban flooding, for several reasons. First, maintaining peak flow rates does nothing to address overall increases in runoff volume. Second, developed sites generate more pollution than undeveloped sites, even when recharge and peak rates are maintained. Third, sediment is not the only stormwater pollutant of concern, and as the National Research Council has stated, the constituents remaining even in "treated" stormwater can have a substantial impact on downstream waterways.

The current weak rules have contributed significantly to the deterioration of water quality across New Jersey. According to the EPA, stormwater is a source of impairment for more New Jersey waters than any other source, causing impairments in over 68% of the state's river miles, plus thousands of acres of lakes and hundreds of square miles of bays and estuaries.

The NRC has found that reducing stormwater runoff by retaining it on-site can dramatically reduce the pollutant loads from development. The EPA also promotes volume retention in order to reduce pollution and erosion. While DEP's forthcoming green infrastructure requirement will offer benefits compared to the status quo, modeling results show that it will not reduce runoff volumes nearly as much as an on-site retention approach. To curb runoff, DEP must require regulated development to retain the full water quality design storm. Retention standards have been adopted in jurisdictions across the country and would be eminently practicable in New Jersey.

Rule Citation: 7:8-5

7. Nature of the Change:

Require on-site retention of the water quality design storm as part of stormwater management compliance. Clearly define "retention" in a way that emphasizes the importance of maximizing recharge and infiltration and preserving existing hydrology, but that provides for the ability, on challenging sites, to discharge clean water at an appropriately low/controlled level after a period of time that technical experts agree is sufficient to ensure that the discharge does not contribute to flooding or combined sewage overflow. Also, ensure that developers receive appropriate credit for the measures they take that prevent runoff and pollution over and above the standards set for the water quality storm.

Why you are seeking the change/the benefits this change will bring:

Onsite retention is key to long-term improvement over existing conditions, especially in urban areas. Developers' engineers and landscape architects point out that they can design projects that far exceed a design standard based on the water quality storm. If they do so, they should get appropriate regulatory "credit" for these high-performing techniques. This encourages/incentivizes high-performing systems and innovation.

Rule Citation:

8. Nature of the Change:

Requirement for redevelopment sites to reduce runoff volumes beyond pre-construction conditions by meeting the same on-site retention standard as new development

Why you are seeking the change/the benefits this change will bring:

Under the current rules, development projects must achieve "pre-construction" groundwater recharge and peak runoff rates. In the case of redevelopment projects where considerable impervious surface coverage already existed, this standard requires no reduction in the quantity of runoff from the redeveloped site. In effect, it preserves the status quo in which redeveloped sites are permitted to continue discharging large amounts of stormwater pollution. What's more, the current rules waive the groundwater recharge standard entirely for sites located within the "urban redevelopment area."

Maintaining pre-construction conditions is often not sufficient to prevent water quality degradation, and is, by definition, never sufficient to restore water quality in a watershed that is already impaired by stormwater. This approach relegates New Jersey's rivers, streams, lakes, and bays to a state of permanent impairment. DEP must require redevelopment sites, like new development sites, to reduce runoff by retaining the water quality design storm volume in order to curb pollution beyond current levels and restore impaired waterways.

Note: a strong redevelopment standard would not, as some have claimed, cause developers to build on greenfields instead of already-developed land because of increased stormwater management costs. A Smart Growth America study found that stormwater requirements actually have little, if any, impact on where and what developers choose to build.

Rule Citation: 7:8-5

9. Nature of the Change:

Require that redevelopment projects meeting the definition of major development comply with all stormwater management requirements.

Why you are seeking the change/the benefits this change will bring:

If redevelopment projects are exempt, opportunities to improve conditions in the built environment are lost -- especially in cities, where improvements are most beneficial. With

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today's high-performing GI techniques designed for urban areas, there is no need to exempt redevelopment. That said, the rules need to be mindful of special circumstances on contaminated sites and provide a predictable route to compliance that achieves water quality goals and other intended beneficial outcomes without discouraging redevelopment. Consistent with broad environmental and state planning goals, stormwater rules should encourage, not impede, redevelopment that helps cities and towns become healthier, more vibrant and livable places.

Rule Citation: