

The Department has reviewed these rules and has determined that the rules should be readopted with the technical changes described above. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

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

SUBCHAPTER 1. LOW-INCOME CREDIT UNIONS

3:21-1.4 Publication and effective date of designation

(a) Upon the Commissioner's receipt of the concurrence of the appropriate Regional Director in the designation of a credit as an LICU, the Commissioner shall, by mail, inform the applicant, the [New Jersey Credit Union League] **CrossState Credit Union Association**, and the National Credit Union Association of the designation.

(b) (No change.)

SUBCHAPTER 2. CREDIT UNION PARITY

3:21-2.1 Credit union parity with [Federally-chartered] **Federally chartered** credit unions

(a) In addition to other authority granted by law and unless contrary to State law, a credit union may exercise any power, right, benefit, or privilege that is now, or hereafter, authorized for Federal credit unions to the same extent as Federal credit unions pursuant to Federal law or rules and regulations of the National Credit Union Administration. A credit union, in exercising those powers, rights, benefits, or privileges shall do so in accordance with the terms, conditions, and requirements established for Federal credit unions. Such powers, rights, benefits, or privileges shall be automatically exercisable upon the expiration of 30 days from the date of adoption of the enabling regulation by the Federal regulatory agency, except if the Commissioner of Banking and Insurance, within that time, provides notice that the power, right, benefit, or privilege shall not be granted to New Jersey credit unions. Such notice shall be posted on the Department's website at www.njdoobi.org. The pertinent information included in such a notice shall also be provided to each credit union, and to the [New Jersey Credit Union League] **CrossState Credit Union Association**. The Commissioner of Banking and Insurance may permit credit unions to begin the exercise of a power, right, benefit, or privilege prior to the expiration of the 30-day period by providing notice of permission through posting the notice on the Department's website at www.njdoobi.org. The pertinent information included in such a notice shall also be provided to each credit union, and the [New Jersey Credit Union League] **CrossState Credit Union Association**.

(b) (No change.)

COMMUNITY AFFAIRS

(a)

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

Notice of Administrative Changes Maximum Attorney Services Fees N.J.A.C. 5:80-31.3

Effective Date: January 1, 2022.

Take notice that the New Jersey Housing and Mortgage Finance Agency (Agency), pursuant to N.J.A.C. 5:80-31.3(f), has determined the annual increase in the overall Consumer Price Index for New York-Newark-Jersey City, as published by the United States Department of Labor, Bureau of Labor Statistics as of September 30, 2021, to be 3.8 percent. Accordingly, the Agency is hereby changing, effective as of January 1, 2022, the maximum fees that can be paid from project funds for Agency-approved attorney services as set forth at N.J.A.C. 5:80-31.3(a).

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

CHAPTER 31. ATTORNEY SERVICES

5:80-31.3 Maximum fees

(a) The maximum fees that can be paid from project funds for Agency-approved attorney services are as follows:

1. General legal matters . . . up to [\$210.00/hour] **\$218.00/hour**;
 2. Tenancy actions, as follows:
 - i. For each of the first two cases (requiring court appearance) on the same day . . . up to [\$166.00] **\$172.00**;
 - ii. For each additional case presented on the same day . . . up to [\$123.00] **\$128.00**; and
 - iii. For each case prepared for trial but resolved prior to actual court appearance . . . up to [\$85.00] **\$88.00**; and
 3. General litigation, as follows:
 - i. Non-trial hours . . . up to [\$292.00/hour] **\$303.00/hour**; and
 - ii. Trial hours . . . up to [\$335.00/hour] **\$348.00/hour**.
- (b)-(f) (No change.)

ENVIRONMENTAL PROTECTION

(b)

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan Definitions; Standards for Certification of Municipal Master Plans and Land Use Ordinances; and Minimum Standards for Point and Non-Point Source Discharges

Adopted Amendments: N.J.A.C. 7:50-2.11, 3.39, and 6.84

Proposed: July 19, 2021, at 53 N.J.R. 1195(a).

Adopted: December 10, 2021, by the New Jersey Pinelands Commission, Susan R. Grogan, Acting Executive Director.

Filed: December 21, 2021, as R.2022 d.021, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 13:18A-6.j.

Effective Date: January 18, 2022.

Expiration Date: Exempt.

The New Jersey Pinelands Commission (Commission) is adopting amendments to Subchapter 2, Interpretations and Definitions, Subchapter 3, Certification of County, Municipal, and Federal Installation Plans, and Subchapter 6, Management Programs and Minimum Standards of the Pinelands Comprehensive Management Plan (CMP). The amendments were proposed on July 19, 2021, at 53 N.J.R. 1195(a). The adopted amendments relate to stormwater management in the Pinelands Area and harmonize the CMP with the stormwater management rules adopted by the New Jersey Department of Environmental Protection in 2019 (see 50 N.J.R. 2375(a)), with modifications consistent with the goals of the CMP and in recognition of the special resources of the Pinelands that the Commission is charged with protecting.

The Pinelands Commission transmitted the notice of proposal to each Pinelands municipality and county, as well as to other interested parties, for review and comment.

Additionally, the Pinelands Commission:

- Sent notice of the public hearing to all persons and organizations that subscribe to the Commission's public hearing registry;
- Sent notice of the public hearing and provided a copy of the notice of proposal to all Pinelands counties and municipalities, a lengthy list of municipal and consulting engineers who typically represent applications or submit development applications to the Commission, and other interested parties;

- Placed advertisements of the public hearing in the four official newspapers of the Commission, as well as on the Commission's own webpage;

- Submitted the proposed amendments to the Pinelands Municipal Council, pursuant to N.J.S.A. 13:18A-7.f;

- Distributed the proposed amendments to the news media maintaining a press office in the State House Complex; and

- Published a copy of the proposed amendments on its webpage at www.nj.gov/pinelands.

Summary of Hearing Officer Recommendations and Agency

Response:

A formal public hearing was held in live video format (Zoom) before the Commission staff on September 1, 2021. Instructions for how to participate in the video hearing were included in the public hearing notice, as well as on the Commission's website. The public hearing was recorded in video format and is on file in the Commission's digital records. Six people called in to provide oral testimony on the notice of proposal.

In addition to the oral comments, the Commission received 10 written comments, two of which were from individuals that provided oral comment at the public hearing.

Summary of Public Comments and Agency Responses:

The Commission accepted oral comments on the July 19, 2021 notice of proposal at the above-discussed September 1, 2021 public hearing and written comments by regular mail, facsimile, or email through September 17, 2021.

The following individuals and organizations submitted comments:

1. Rhyan Grech, Pinelands Preservation Alliance
2. Georgina Shanley, Citizens United for Renewable Energy
3. Marie Pezzato, resident of Burlington County
4. Wendy Brophy, former Tabernacle resident, current Ocean County resident
5. Charles Caruso, in personal capacity
6. Sandra Blick (public hearing) and Joseph Sweger (written comment), New Jersey Department of Transportation
7. L. Stanton Hales, Jr. PhD, Barnegat Bay Partnership
8. Stephen M. Mazur, PE, PP, PTOE, CME, South Jersey Transportation Authority
9. Patrick Stewart, New Jersey Society of Professional Engineers
10. Tony DiLodovico, Tony D Environmental Permitting, LLC
11. Dan Kennedy, P.P., MCRP, Utility and Transportation Contractors Association
12. Robert J. Fischer, P.E., New Jersey Turnpike Authority
13. Hunter Birckhead, P.E., CFM, Colliers Engineering
14. Grant Lucking, New Jersey Builders Association

The Commission's detailed response to the comments is set forth below. The numbers in parentheses after each comment correspond to the list of commenters above.

General Comments

1. COMMENT: Several commenters expressed general support for the notice of proposal, with many stating that the notice of proposal will strengthen and enhance stormwater protection in the Pinelands. Two commenters added that the notice of proposal will have the same benefits in Barnegat Bay. Some expressed appreciation for the efforts of the Pinelands Commission to go further than the stormwater rules recently adopted by the New Jersey Department of Environmental Protection (NJDEP) in protecting the natural resources of the Pinelands. (1, 2, 3, 5, 7, and 9)

RESPONSE: The Commission thanks the commenters for their support.

2. COMMENT: Several commenters noted that the additional protections provided for in the notice of proposal are important in the face of climate change and its impact on stormwater runoff. (1, 3, and 7)

RESPONSE: The Commission thanks the commenters for their support.

3. COMMENT: Two commenters stated that the proposed changes establish reasonable requirements for home builders and developers. (5 and 7)

RESPONSE: The Commission thanks the commenters for their support.

4. COMMENT: Two commenters stated that they believe municipalities that have areas both within and outside the Pinelands Area should be encouraged to apply the Commission's stormwater rules that are superior to the NJDEP rules, both within and outside the Pinelands Area. The commenters submit that such a change would result in overall improvements in water quality in the Pinelands and adjoining areas and give municipalities additional flexibility in their management of stormwater. (5 and 7)

RESPONSE: The Commission appreciates the commenters' interest in improving water quality in the Pinelands Area and in the areas adjacent to it. Pursuant to the Pinelands Protection Act at N.J.S.A. 13:18A-8, the Commission's regulatory authority is limited to the State-designated Pinelands Area. Consequently, the Commission cannot mandate that municipalities implement the Commission's stormwater rules in those portions of the municipality located outside of the Pinelands Area.

5. COMMENT: Three commenters requested an exception for *de minimis* impacts for public roadway projects, such as a threshold of allowable impervious surface with no additional BMP required for each HUC-14. (6, 8, and 11)

RESPONSE: Neither the current stormwater management rules nor the proposed rules provide a means for granting exceptions for *de minimis* impacts for public roadway projects. Additionally, it is not feasible within the context of the proposed rulemaking to address all situations where exceptions for *de minimis* impacts could be sought by a public agency. However, pursuant to N.J.A.C. 7:50-4.52, the Commission may enter into an intergovernmental agreement that authorizes a public agency to undertake development activities that are not fully consistent with Pinelands land use and development standards. Such an agreement could address specific concerns of intergovernmental agency staff and could provide a formal means of defining potentially *de minimis* impacts, as well as streamlined application and review procedures on a more comprehensive basis.

6. COMMENT: One commenter relayed her personal experience installing a rain garden at her house, with guidance from Rutgers University, that has been successful in combating flooding issues on her property. She explained that her community had once been forested but is now a housing development that has drainage issues when it rains. She feels that if her one rain garden can be so successful for one house, the State should adopt stronger stormwater management requirements. (4)

RESPONSE: The Commission thanks the commenter for her support.

7. COMMENT: One commenter advised the Pinelands Commission that he and another engineer have submitted updates to Chapter 9, NEH4 Part 630 Hydrology to the United States Natural Resources Conservation Service (USDA NRCS) for their review. Among the recommended changes is the acknowledgment that the Curve Number Method is not applicable in forest HSG A and B soils. They conducted a hydrology study in McDonald's Branch within the Pinelands National Reserve that confirmed their findings. He suggested an informal meeting with Pinelands Commission staff to discuss these findings on the proper use of the Curve Number in the Pinelands National Reserve and to address storm water management on a valid scientific basis. (13)

RESPONSE: The Commission thanks the commenter for the offer to meet with the Pinelands Commission staff to discuss recommendations on the use of the Curve Number in the Pinelands National Reserve. The Commission suggests meeting after the USDA NRCS has reviewed the commenter's report and has issued a formal response thereto.

Runoff Rate and Volume, Runoff Quality, and Groundwater Recharge Methodologies (recodified N.J.A.C. 7:50-6.84(a)6ii)

8. COMMENT: Three commenters requested that the Rational Method be acceptable when assessing peak flows and that the NRCS method limits apply only for runoff volume calculations and the sizing of a stormwater management measure. (6, 8, and 11)

RESPONSE: The proposed amendments at N.J.A.C. 7:50-6.84(a)6ii(1) prohibit use of the Rational Method only when calculating rates of stormwater runoff and volume of stormwater to be recharged. The amendments codify the Commission's long-standing policy to prohibit use of the Rational Method for demonstrating compliance with the runoff

requirements and recharge standards in the CMP. The Rational Method can continue to be utilized for stormwater system design purposes for standards that are not specifically addressed in the CMP (for example, calculations for sizing stormwater conveyance pipe).

Runoff Requirements (recodified N.J.A.C. 7:50-6.84(a)6iii)

9. COMMENT: Several commenters urged the Commission to leave intact the requirement for applicants to file a deed notice on any undeveloped area of the property in order to be allowed to deduct that acreage from stormwater calculations. One of the commenters stated that deeds are useful and allow for accurate tracking of portions of properties down the road, particularly after properties have changed hands. Two of the commenters stated that the current rule, which permanently restricts those areas from development, is more protective of Pinelands habitats, biotic resources, and water quality throughout all Pinelands watersheds, including the Barnegat Bay. (1, 5, and 7)

RESPONSE: Prior to the adoption of these amendments, the CMP provided applicants with two options for the undeveloped portions of their parcels: recordation of a permanent deed restriction or the filing of a deed notice. The Commission chose to remove the option for an applicant to impose a permanent deed restriction on the undeveloped portion of a parcel of land because applicants rarely, if ever, chose this option as a way of demonstrating compliance with stormwater management requirements. They more frequently opt to file a deed notice stating that the undeveloped portion of the parcel would be subject to CMP stormwater management requirements when, and if, a proposal for its development was submitted in the future. The Commission has determined that deed notices are not necessary because any future development of the parcel would be required to meet all CMP standards, including stormwater management, regardless of whether a deed notice is placed on the parcel. The notice does not impose new requirements on the parcel and only results in additional costs to the property owner and delays in the approval process. In addition, the Commission maintains an accurate and effective application tracking database and process that serve the same purpose as the deed notice-to ensure that applicants meet the CMP stormwater management requirements when any remaining portion of a parcel in the Pinelands Area is developed.

10. COMMENT: Two commenters expressed concern that prohibiting stormwater runoff from being directed in such a way as to increase volume and rate of discharge into any wetlands and wetlands transition area at N.J.A.C. 7:50-6.84(a)6iii(1) appears to require infiltration of the increase in runoff from the 100-year storm. The commenters state that this is contrary to the Commission's long-established position that it only requires infiltrating the increase in runoff from the 10-year storm runoff. (10 and 14)

RESPONSE: The Commission believes the commenters have misinterpreted this amendment. It does not require infiltration of the increase in runoff from the 100-year storm. The Commission is merely adding "wetlands" and "wetlands transition areas" to the existing prohibition against directing stormwater runoff in such a way as to increase the volume and rate of discharge into a surface water body. The Commission historically has not allowed applicants to direct stormwater in a way that increases the volume and rate of discharge into wetlands and wetlands transition areas and this amendment simply codifies this existing, long-standing practice.

Recharge Standards (recodified N.J.A.C. 7:50-6.84(a)6iv)

11. COMMENT: One commenter applauded the Commission's notice of proposal to exceed the NJDEP's standards regarding nitrogen removal and minor development. The commenter stated that the CMP already further protected surface waters and areas around high pollutant areas, and the new standards are appropriate to preserve the quantity and quality of the Kirkwood Cohansey aquifer. (1)

RESPONSE: The Commission thanks the commenter for its support.

12. COMMENT: Three commenters believe that the major and minor development thresholds should not include temporary disturbances as part of public roadway projects that will be restored upon the completion of the project. (6, 8, and 11)

RESPONSE: The proposed amendments do not change the definitions of major and minor development in the CMP and the Commission does

not see a need to make any changes to these definitions at this time. The CMP does not distinguish between temporary or permanent disturbance. Both have always been required to be considered in stormwater calculations and the Commission continues to believe that is appropriate.

13. COMMENT: Three commenters believe that the threshold for both major and minor development projects should be determined on a watershed basis, not the project in its entirety, as roadway projects cross multiple watersheds. (6, 8, and 11)

RESPONSE: The Commission notes that the current rulemaking does not include any changes to the current CMP definitions of major and minor development. The CMP requires an applicant to consider the total amount of proposed disturbance associated with a development application submitted to the Commission. The Commission does not believe any changes are warranted.

14. COMMENT: Two commenters expressed support for the definitions of major and minor development in the proposed rule because the definitions enable better protection of Pinelands resources beyond that provided by the current NJDEP rules. (5 and 7)

RESPONSE: The Commission thanks the commenters for their support.

Minor Residential Development (recodified N.J.A.C. 7:50-6.84(a)6iv(2))

15. COMMENT: Two commenters believe the recharge standards for minor residential development should be expanded to include recharge from all impervious surfaces in the development, such as driveways, and not just from roofs. (5 and 7)

RESPONSE: The proposed recharge standards for minor residential development offer greater protection of Pinelands resources than both the current CMP and the NJDEP stormwater rules. The Commission does not agree that those standards should be expanded any further at this time, given the proposed rule already captures smaller development projects that would not be subject to stormwater management requirements pursuant to the NJDEP rule.

Minor Non-Residential Development (recodified N.J.A.C. 7:50-6.84(a)6iv(3)(A))

16. COMMENT: Three commenters expressed concern over the effect of the infiltration thresholds on public roadway projects. Specifically, they were concerned over the requirement for infiltration when an excess of 1,000 square feet of regulated motor vehicle surface is proposed for minor nonresidential development. They stated that this requirement will cause project delays, additional costs for design, right-of-way acquisition, and maintenance for additional BMPs. Drainage issues that could have been resolved with a few additional inlets may now require BMPs. The commenters request a waiver process for public roadway projects. (6, 8, and 11)

RESPONSE: The Commission does not believe that it is necessary or appropriate to incorporate a special waiver process for public roadway projects. The amendments already provide the Commission with the ability to grant exceptions and allow for off-site mitigation for all public development projects that cannot meet CMP on-site design and performance standards for green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quality for public development projects. The proposed amendment to require that the infiltration of the water quality design storm volume generated on any increase of more than 1,000 square feet of regulated motor vehicle surfaces will apply only to new motor vehicle surfaces. The requirement will not be applied to existing regulated motor vehicle surfaces and will not be triggered when existing stormwater conveyance systems are repaired or replaced.

17. COMMENT: Three commenters stated that at locations where the water table is high, infiltration will not function, yet the new criteria will require more infiltration BMPs. The commenters recommend that N.J.A.C. 7:50-6.84(a)6vii indicate that where infiltration is not feasible within the project area, infiltration will not be required for minor non-residential development. (6, 8, and 11)

RESPONSE: The Commission is not amenable to this request, as the amendments provide for the granting of exceptions at N.J.A.C. 7:50-6.84(a)6vii, which allow for off-site mitigation for minor non-residential projects that cannot meet the on-site design and performance standards for

green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quality for public development projects.

18. COMMENT: Several commenters questioned the basis for recharge standards for an increase of 1,000 square feet of regulated motor vehicle surfaces. One commenter requested justification for the additional recharge standard and two commenters asked: (1) why the Commission is deviating from existing standards; and (2) how the Commission determined that 1,000 square feet is appropriate. (10, 11, and 14)

RESPONSE: To strengthen the protection of Pinelands water resources, the Commission decided to improve stormwater runoff quality from minor nonresidential regulated motor vehicle surfaces, as defined at N.J.A.C. 7:8-1.2. Regulated motor vehicle surfaces are subject to contamination from automotive chemicals. These pollutants frequently bind to soil particulates (sand, silt, and clay) that collect on regulated motor vehicle surfaces. The proposed amendments require that stormwater runoff originating from new regulated motor vehicle surfaces be treated to remove 80 percent of total suspended solids (TSS) from the water quality design storm (1.25 inches/2-hours). Treated stormwater, free of most particulate-bound pollutants, is then recharged to groundwater.

The Commission selected 1,000 square feet as the threshold at which enhanced water quality protections were warranted based upon the area of standard parking spaces and interior roadway widths to access those spaces, as well as the typical length and width of highway acceleration and deceleration lanes. The addition of four new parking spaces and the necessary travel lanes to access those spaces would create approximately 1,000 square feet of new regulated motor vehicle surface. Under the proposed amendments, parking lot expansions exceeding four parking spaces and highway acceleration and deceleration lanes, for example, would be subject to the enhanced stormwater quality and groundwater recharge standard. Increases in regulated motor vehicle surface below the 1,000 square feet threshold would not be subject to the TSS removal and groundwater recharge standard, as they are considered to be *de minimis* for regulatory purposes.

The Commission's decision to set 1,000 square feet as the threshold for TSS removal was also based on the minimum size of non-residential development that requires Commission review. Under the review requirements and exemptions contained in the CMP at N.J.A.C. 7:50-4.1(a)8ii, the expansion of a parking lot by 1,000 square feet or less would not require application to the Commission and, therefore, would not require Commission review. The threshold for the recharge standard for minor nonresidential regulated motor vehicle surfaces at 1,000 square feet is, thus, consistent with the CMP's review requirements for non-residential development.

This proposed stormwater runoff quality standard provides greater protection of the Pinelands water resources than NJDEP's stormwater runoff quality standards provide. NJDEP's stormwater runoff quality standards at N.J.A.C. 7:8-5.5 require 80 percent TSS removal and groundwater recharge from regulated motor vehicle surfaces when major development results in an increase of 10,890 square feet or more of regulated motor vehicle surface.

The Commission is making a minor, non-substantial change to the proposed amendments, at recodified N.J.A.C. 7:50-6.84(a)6iv(3)(A), to clarify that it will require 80 percent TSS removal from stormwater runoff from regulated motor vehicle surface for all development (major and minor) that results in an increase of "greater than" 1,000 square feet (rather than 1,000 square feet or more) of regulated motor vehicle surface. Development that results in 1,000 square feet or less of regulated motor vehicle surface will not be subject to the 80 percent TSS removal requirement.

19. COMMENT: A commenter asked that the Commission consider expanding the recharge standards for minor non-residential development to require onsite infiltration if more than 500 square feet of regulated motor-vehicle surface is added (as opposed to the proposed 1,000 square feet). The commenter referenced the Commission's rule proposal Summary, which stated that chemicals from *individual* parking spaces warrant removal before they enter the groundwater table, adding that some municipalities have already considered using the 500 square foot benchmark. (7)

RESPONSE: The Commission does not believe that expansion of this provision to 500 square feet is appropriate given that the CMP does not require review for the expansion of a parking lot of up to 1,000 square feet. Individual municipalities, however, may choose to apply a stricter standard in their land use ordinances, if they believe they have the enabling authority to do so. See also the Response to Comment 18.

Nitrogen Removal (recodified N.J.A.C. 7:50-6.84(a)6iv(6))

20. COMMENT: Several commenters enthusiastically supported the Commission's proposal to exceed NJDEP's standards regarding nitrogen removal, recognizing nitrogen as a significant source of harm to the Pinelands. One commenter also noted the downstream impacts of nitrogen on Barnegat Bay. (1, 5, and 7)

RESPONSE: The Commission thanks the commenters for their support.

21. COMMENT: Two commenters expressed concern with the 65 percent nitrogen removal standard. One commenter explicitly opposed it; one asked how the Commission came up with the standard; and both requested justification for having a specific nitrogen standard and requested scientific information, literature, studies, and Pinelands-specific studies to support the standard. (10 and 14)

RESPONSE: The Commission's decision to establish a specific, quantitative nitrogen removal standard is based on: (1) the need for the development community to have a specific, quantitative standard to help improve the predictability and efficiency of regulatory reviews; (2) the unique characteristics of ground and surface water in the Pinelands and the need to afford these resources the highest levels of protection; (3) a longstanding objective of the Pinelands Commission to control the amount of nitrogen entering the environment, as reflected in the CMP; and (4) peer-reviewed scientific research.

In its experience reviewing stormwater management plans, the Commission has found that it is often difficult for stormwater management system designers and regulatory design reviewers to agree on whether a plan meets the NJDEP standard that nitrogen be removed from stormwater runoff to the "maximum extent feasible." See N.J.A.C. 7:8-5.5(f). The Commission believes that the "maximum extent feasible" standard does not provide the necessary predictability for the development community and often delays regulatory reviews. The Commission concluded that setting a quantitative standard that can be achieved by using the NJDEP's NJ Stormwater Best Management Practices (BMP) Manual inserts specificity and clarity into the regulatory process for both designers and reviewers of stormwater management systems. The BMP Manual provides both individual BMP nitrogen removal rates, as well as a simple way to calculate how BMPs can be arranged in series to attain 65 percent nitrogen removal.

Numerous scientific studies have demonstrated that unpolluted groundwater aquifers and surface waters in the Pinelands Area are characterized by very low concentrations of nutrients, including nitrogen, with natural nitrate-nitrogen concentrations being reported as low as 0.17 parts per million (ppm). Pinelands surface waters are classified by the NJDEP as Outstanding National Resource Waters and are identified as Pinelands (PL) waters. These PL water resources are afforded the highest level of protection under the NJDEP's Surface Water Quality Standards, N.J.A.C. 7:9B. Similarly, groundwater in the Pinelands Protection Area, classified as Class 1-PL (Pinelands Protection Area) are known as Ground Water of Special Ecological Significance and, pursuant to NJDEP rules, "background water quality" is to be maintained. (See N.J.A.C. 7:9C).

The requirement to remove at least 65 percent of nitrogen in stormwater runoff from the water quality storm at major development sites is based on the mandate that waters of the Pinelands Area be afforded the highest level of protection from pollution.

The proposed removal standard is also consistent with a fundamental objective of the Pinelands CMP to control the amount of nitrogen that enters the Pinelands environment. See N.J.A.C. 7:50-10.21(b). This objective is reflected in the CMP requirement, adopted in 2002, that total nitrogen concentrations in wastewater discharged from septic systems be reduced by 65 percent when septic systems are used on one-acre lots in the Pinelands Area. See N.J.A.C. 7:50-10.21.

Multiple studies by the Pinelands Commission and others have demonstrated the connection between land use, the occurrence of nitrogen

and other pollution-related contaminants, and changes in native Pinelands plant and animal assemblages. Land use that involves application of fertilizer or the deposition of pet waste degrades ambient Pinelands water quality, which allows the invasion and establishment of non-native plants and animals that can outcompete, prey upon, and eventually eliminate, native Pinelands species. All but the Brown and Rhodehamel studies listed below are scientific research papers that were published in peer-reviewed journal articles.

Brown, K. W. and Associates. 1980. An assessment of the impact of septic leach fields, home lawn fertilization and agricultural activities on groundwater quality. Prepared for the New Jersey Pinelands Commission, College Station, TX, 77840. March 1980, 108 pp.

Bunnell, J. F. and R. A. Zampella. 2008. Native fish and anuran assemblages differ between impoundments with and without non-native centrarchids and Bullfrogs. *Copeia* 2008:931-939.

Dow, C. L. and R. A. Zampella. 2000. Specific conductance and pH as indicators of watershed disturbance in streams of the New Jersey Pinelands, U.S.A. *Environmental Management*. 26:437-445.

Rhodehamel, E.C. 1970. A hydrologic analysis of the New Jersey Pine Barrens. New Jersey Department of Environmental Protection, Div. of Water Policy and Supply, Water Resources Circular No. 22.

Smalling, K. L., S. E. Breitmeyer, J. F. Bunnell, K. J. Laidig, P. M. Burritt, M. C. Sobel, J. A. Cohl, M. L. Hladik, K. M. Romanok, and P. M. Bradley. 2021. Assessing the ecological functionality and integrity of natural ponds, excavated ponds and stormwater basins for conserving amphibian diversity. *Global Ecology and Conservation* 30:e01765.

Zampella, R. A. 1994. Characterization of surface water quality along a watershed disturbance gradient. *Water Resources Bulletin* 30:605-611.

Zampella, R. A. and J. F. Bunnell. 1998. Use of reference-site fish assemblages to assess aquatic degradation in Pinelands streams. *Ecological Applications* 8:645-658.

Zampella, R. A. and K. J. Laidig. 1997. Effect of watershed disturbance on Pinelands stream vegetation. *Journal of the Torrey Botanical Society* 124:52-66.

Zampella, R. A., N. A. Procopio, R. G. Lathrop, C. L. Dow. 2007. Relationship of landuse/land-cover patterns and surface-water quality in the Mullica River Basin. *Journal of the American Water Resources Association* 43:594-604.

22. COMMENT: Several commenters expressed concern over the ability of applicants to prove they have achieved 65 percent nitrogen removal. Two commenters asked how the standard will be enforced. One commenter believes the rule should explicitly address how the standard will be enforced. (5, 7, 10, and 14)

RESPONSE: As noted in the Response to Comment 21, the NJDEP BMP Manual provides nitrogen percentage removal rates for individual stormwater BMPs and also provides a methodology of how to calculate the percentage of nitrogen removed from stormwater when individual BMPs are arranged in series. When developing a stormwater management plan, an applicant will be required to evaluate the nitrogen removal from each stormwater BMP and to calculate the total nitrogen removal percentage when two or more BMPs are arranged in series. This computational method will be relied upon to confirm that the proposed stormwater management plan meets the Commission's minimum 65 percent nitrogen removal standard.

23. COMMENT: Two commenters suggested that a water quality assessment be performed prior to introducing a water quality standard, such as nitrogen removal rates. One commenter compared nitrogen removal to removal of total suspended solids (TSS), stating that TSS removal is a secondary treatment standard, so 80 percent removal of TSS does not need to be specifically justified. The commenter stated that nitrogen, however, is a nutrient subject to water quality standards and that it is inappropriate to require a set percentage removal standard throughout the Pinelands without a specific water quality assessment. (10 and 14)

RESPONSE: The Commission agrees that the requirement to remove 80 percent of TSS from stormwater runoff does not need to be justified; however, it is important to note that TSS removal accomplishes significant

reductions in the pollutant load that adsorbs to solids suspended in stormwater runoff.

With respect to the nitrogen removal standard, as noted in the Response to Comment 21, numerous research studies by the Pinelands Commission and others have characterized ambient surface and groundwater quality in the Pinelands Area and have identified water quality impairments, including elevated nitrogen concentrations related to land use. Also, as noted in the Response to Comment 21, the NJDEP's Surface Water Quality Standards (see N.J.A.C. 7:9B) and Groundwater

Quality Standards (see N.J.A.C. 7:9C) establish "nondegradation" and "background water quality," respectively, as the applicable water quality standards in the Pinelands Area. The Commission disagrees that additional water quality assessments are needed to support the adoption of a minimum 65 percent nitrogen removal standard.

Further, the Commission believes it is appropriate to establish a quantitative removal standard for nitrogen. The March 1980 assessment by K.W. Brown and Associates cited in the Response to Comment 21, included a review of available information on the potential movement of nutrients (including nitrogen) to groundwater from fertilized lawns in light of the characteristics of Pinelands Area soils. Brown notes that lawn fertilization would be expected to add large amounts of nitrogen to the groundwater and even larger acreages than are required for septic fields would need to be set aside to allow dilution of the nitrogen laden stormwater to reach acceptable levels. Brown reports that up to 52 percent of nitrogen applied as inorganic N may be leached to groundwater as nitrate. Slow release organic nitrogen sources are reported to leach approximately 33 percent of the applied nitrogen as nitrate to the groundwater aquifer.

Based on Brown's work in which various nitrogen fertilizer applications are anticipated each year, coupled with Rhodehamel's findings in the work cited in the Response to Comment 21, that an average of 20 inches of water infiltrates and percolates to groundwater annually, nitrate-nitrogen concentrations ranging from a high of 16.9 ppm (inorganic nitrogen fertilizer) to a low of 3.9 ppm (inorganic nitrogen fertilizer) would occur in groundwater beneath lawn areas.

Assuming lawn areas in the Pinelands Area are fertilized using (slow release) organic forms of nitrogen, Brown calculated the resultant nitrate-nitrogen concentrations in groundwater beneath the lawn area for the three fertilizer application scenarios presented below:

1. A 1,000 square foot house with a one-car garage and 50-foot-long driveway on a 0.25 acre lot. All land not occupied by the house and driveway will be lawn.

2. A 1,500 square foot house with a two-car garage and 200-foot-long driveway on a 1.0 acre lot. Eighty percent of the land not occupied by the house and driveway will be lawn.

3. A 2,000 square foot house with a two-car garage, a 500-square-foot utility building, and 1.5 acres of lawn on a 5.0 acre lot.

Based upon a homeowner's fertilizing his or her lawn area with an inorganic (slow release) fertilizer formulation of two pound N/1000 square feet in April-May and one pound N/1000 square feet each June and August, the concentration of nitrate entering the groundwater aquifer from these three scenarios would be 10.7 ppm, 9.4 ppm, and 3.9 ppm, respectively, with an average concentration of eight ppm. Reducing the average value by 65 percent would result in water infiltrating to the underlying water table aquifer containing 2.8 ppm nitrate, which although still above the Pinelands Area water quality standard of two ppm nitrate-nitrogen, is a vast improvement.

If the Commission required more than 65 percent nitrogen removal from stormwater runoff using green infrastructure (GI) BMPs, at least three GI BMPs in series would be required. The Commission has determined that these multiple measures are not feasible in most instances and that 65 percent removal is more easily achievable, provides a significant reduction in the concentration of nitrate entering the aquifer and is, thus, appropriate at this time.

24. COMMENT: Two commenters requested that the Commission follow NJDEP's lead regarding nutrient removal rates, stating that further study and evaluation are necessary for both a prudent rate of removal and the rate at which specific BMPs can achieve this result. One of the commenters noted that he is on the stakeholder subgroup that has been investigating the nutrient removal issue and that they are a long way away

from agreeing that a numerical standard is appropriate, no less a specific percentage removal standard. They stated that there are no specific studies that address a Statewide percentage total nitrogen removal standard and that the performance of BMPs to reduce nutrients is “all over the place.” (10 and 14)

RESPONSE: As noted in the Response to Comment 21, the requirement to remove at least 65 percent of nitrogen in stormwater runoff from the water quality storm at major development sites is based on a fundamental objective of the CMP to control the amount of nitrogen that enters the Pinelands environment. See N.J.A.C. 7:50-10.21(b). Ample research has characterized the Pinelands Area as an ecologically sensitive environment, particularly vulnerable to excessive nitrogen loading that can lead to eutrophication, proliferation of invasive species, and the decline of native Pinelands plants and animals. The lack of consensus among the stakeholder subgroup investigating the applicability of a Statewide nutrient removal percentage has no relevance to the uniquely environmentally sensitive Pinelands environment.

The Commission is aware that the BMP Manual, Chapter 4, Table 4.2 “Typical Phosphorous and Nitrogen Removal Rates for BMPs” provides the “Total Nitrogen Removal Rates (%)” for various stormwater BMPs and that such values should be considered typical values based upon data from a range of research studies. While the reported total nitrogen removal rates may be based on a range of studies, the Commission believes that it is important to act now to protect Pinelands water resources by establishing minimum nitrogen removal rates from stormwater runoff. The Commission is relying on the best information currently available, including the existing assessments of Pinelands water quality, the known impacts of land use on the ecologically sensitive Pinelands ecosystem, the need to protect Pinelands water resources, and the information provided by the NJDEP for typical nitrogen removal rates of various BMPs.

25. COMMENT: A commenter noted that BMPs will need to be studied and provided to address water quality standards as the stormwater rules only require water quality treatment from motor vehicle areas. (14)

RESPONSE: The Commission supports further research on the performance of stormwater BMPs and, in fact, applied jointly with the United States Geological Survey (USGS) New Jersey Water Science Center for grant funding to evaluate BMP nutrient attenuation performance in the Pinelands Area. However, the requested grant funding for that research was not provided.

26. COMMENT: A commenter noted that since the stormwater regulations only require water quality treatment from motor vehicle areas, there will have to be separate BMPs for vegetative areas. (10)

RESPONSE: The Commission recognizes that a design engineer may be required to utilize separate BMPs to meet all stormwater management standards for a given project.

27. COMMENT: Two commenters expressed concern that combining the runoff from motor vehicle and vegetative surfaces into one water quality BMP will exacerbate the requirement to restrict the drainage areas to one and 2.5 acres. (10 and 14)

RESPONSE: The commenters did not provide specific examples to illustrate their concerns, but the Commission does not anticipate that combining runoff from the two surfaces will be problematic. The design engineer is not limited in the number of BMPs that could be utilized to meet all stormwater management standards. Additionally, the engineer may design the project, so that the runoff from the motor vehicle and vegetative surfaces remain separate and are not combined into the same BMP.

28. COMMENT: Four commenters requested an exception for public roadway projects from the nitrogen removal requirement based on their assumption that the new standard is intended to address only nitrogen loading produced by fertilizer. Although the notice of proposal Summary references lawn and turf areas specifically intended for active human use, public roadway projects use fertilizer when initially establishing vegetation. The commenters thought that this description of lawn and turf areas is vague. For public roadway projects, fertilizer is applied only during initial construction activities in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey and is not a contributor to nitrogen loading in stormwater beyond the construction period. The commenters recommended that the Commission not classify roadway

embankments, specifically, limited access highways, as areas of “active human use” that would require nitrogen treatment. (6, 8, 11, and 12)

RESPONSE: The amendments require a 65 percent reduction of the post-construction total nitrogen load “from the developed site, including permanent lawn or turf areas that are specifically intended for active human use...” (Proposed N.J.A.C. 7:50-6.84(a)6iv(6)). Vegetated areas associated with public roadway projects, are typically not managed in such a way that they receive, or have the potential to receive, regular applications of fertilizer. Nor are they intended for active human use. They are, therefore, not considered to be permanent lawn or turf areas and are not required to meet the 65 percent reduction of the post-construction total nitrogen load rule amendment. The Commission recognizes that a one-time application of fertilizer may be necessary to establish a meadow area or stabilize a road shoulder. If there was no plan for routine or regular application of fertilizer in the future, such areas would not be considered part of the “developed site” for purposes of meeting this standard.

29. COMMENT: Four commenters said that it is impractical to use two green infrastructure BMPs in series to achieve the 65 percent nitrogen reduction in linear transportation projects. (6, 8, 11, and 12)

RESPONSE: The Commission disagrees. Provided that the vegetated areas are not intended to receive, or have the potential to receive, regular applications of fertilizers, the standard would not apply to linear roadway projects. See the Response to Comment 28.

30. COMMENT: Two commenters stated that using two green infrastructure (GI) BMPs in series to achieve the 65 percent nitrogen reduction could require greater amounts of disturbance to achieve. The commenters recommended a lower nitrogen load requirement so that the limit can be met without BMPs installed in series and, if needed, without an infiltration basin. (11 and 12).

RESPONSE: The Commission recognizes that the use of multiple GI BMPs in series would be required to achieve the minimum 65 percent reduction on total nitrogen in stormwater runoff. The Commission envisions that this would most often be accomplished by routing stormwater runoff through a Vegetative Filter Strip prior to discharge to a Small-Scale Infiltration Basin. Vegetative Filter Strips may consist of meadow cover, planted woods, existing forested areas, and other vegetated areas that are not managed in such a way that they receive, or have the potential to receive, regular applications of fertilizer. Where existing forested areas are present and can provide the requisite sheet flow, the Commission would expect that those forested areas be left intact and utilized for both TSS and nutrient removal. Planted woods and meadow cover, while requiring temporary disturbance, would also be suitable for use in combination with a Small Scale Infiltration Basin. The use of turf grass vegetation in a Vegetative Filter Strip, while identified as an acceptable vegetative cover per the NJDEP BMP Manual, would not be suitable for use in the Pinelands Area given these areas are typically managed to receive, or have the potential to receive, regular applications of fertilizers.

Alternatively, the minimum 65 percent nitrogen removal requirement could be met by routing stormwater through an under-drained Small-Scale Bioretention System (such as a bioswale) with discharge to a Small-Scale Infiltration Basin. While the construction of a Small-Scale Bioretention System would also require temporary disturbance, these systems can be vegetated with a Terrestrial Forested Community or Site-Tolerant Grasses, both of which provide TSS removal and nutrient uptake, as well as the removal of a wide range of pollutants with an esthetically pleasing appearance on the landscape.

The Commission has determined that the environmental benefits of nitrogen attenuation provided by these GI BMPs and the importance of ground water recharge to maintain groundwater levels in the Kirkwood-Cohansey Aquifer outweigh the temporary disturbance associated with GI BMP construction.

31. COMMENT: Several commenters employed by, or representing, the transportation agencies expressed concern over the removal of nitrogen from water that has been infiltrated. Two other commenters involved with residential development in the Pinelands stated that to meet the nitrogen removal standard would require a minimum of two BMPs, but following infiltration of the water quality design storm, there will be insufficient flow left to send to another BMP. These commenters stated that further complicating this is NJDEP’s requirement that the lower

percentage removal BMP be used first in a series. In addition, they said that the only way to achieve a 65 percent removal rate is to use a vegetative filter strip followed by an infiltration basin, which is highly impractical for residential subdivisions because lawn areas would have to sheet flow to an additional vegetated area, which can't be part of the lawn, and then sheet flow to an infiltration basin, resulting in multiple vegetated filter and infiltration basin BMPs on each lot. Three commenters requested that if the Water Quality Design Storm is being infiltrated, no additional treatment should be required to address the nitrogen removal criteria. (6, 8, 10, 11, and 14)

RESPONSE: The Commission agrees that it will be necessary to use two GI BMPs in series to meet the minimum 65 percent nitrogen removal standard. However, as noted in the Response to Comment 30, this could be achieved either through the use of a Small-Scale Filter Strip followed by a Small-Scale Infiltration Basin or an under-drained Small-Scale Bioretention System followed by a Small-Scale Infiltration Basin. The Commission disagrees that the need to use the GI BMP that provides the lower nitrogen removal first in the treatment train is problematic or presents a further design complication. The Commission acknowledges that stormwater that flows over lawn areas in a residential subdivision and then directly into an infiltration BMP may now have to first flow through a vegetative filter strip that is not part of the maintained lawn area, prior to entering the infiltration BMP, to meet the standard. The Commission does not believe that smaller storm events, such as the Water Quality Design Storm, if partially infiltrated or evaporated prior to reaching the Small-Scale Infiltration Basin, are problematic. As noted in the Responses to Comments 21 and 24, the requirement to remove at least 65 percent of nitrogen in stormwater runoff from the water quality storm at major development sites is based on a fundamental objective of the Pinelands Comprehensive Management Plan to control the amount of nitrogen that enters the Pinelands environment. (N.J.A.C. 7:50-10.21(b)). Further, the NJDEP's Surface Water Quality Standards at N.J.A.C. 7:9B and Groundwater Quality Standards at N.J.A.C. 7:9C impose non-degradation and background water quality standards that are the most protective of Pinelands water resources. As a result of the fundamental principal of the CMP, and the highly protective water quality standards that apply to the Pinelands Outstanding National Resource Waters and Ground Water of Special Ecological Significance, the Commission is committed to the minimum 65 percent nitrogen removal standard applicable to the Water Quality Design Storm.

32. COMMENT: Three commenters requested that Constructed Gravel Wetlands be approved as a BMP because it has a 90-percent nitrogen removal rate. (6, 8, and 11)

RESPONSE: The Commission acknowledges that Subsurface Gravel Wetlands are an effective method of removing nitrogen. However, because the NJDEP does not recognize Subsurface Gravel Wetlands as a GI BMP and because nutrient reduction must be achieved through the use of GI BMPs before non-GI BMPs may be used, the Commission suggests that the commenters bring this matter to the attention of the NJDEP for consideration.

N.J.A.C. 7:50-6.84(a)6v

33. COMMENT: Three commenters recommended that the groundwater mounding analysis that is required for major development also be required for minor development, as it is indicative of whether the facilities will infiltrate. Failure to infiltrate could adversely impact adjacent properties, including the State Roadway system. (6, 8, and 11)

RESPONSE: The proposed amendments impose stormwater infiltration requirements for minor development. The existing rule does not impose any infiltration requirement on minor development, and, therefore, the proposed amendment will be more protective of adjacent properties, including the State Roadway system. The Commission does not agree that requiring a groundwater mounding analysis for each minor development is necessary since it is anticipated that, when compared to the existing rule, the proposed amendments will result in the retention and infiltration of a greater volume of stormwater throughout the Pinelands Area, and that the rule will result in less stormwater runoff onto adjacent properties and roadways. While the Commission has chosen not to impose a requirement to provide a groundwater mounding analysis for minor

development, such an analysis may be required by other government entities that have regulatory authority over the development.

34. COMMENT: Three commenters stated that the requirement for spatial distribution of smaller stormwater management measures may not always be practicable for public roadway projects and is the basis for the NJDEP's plans to amend its stormwater management rules to allow flexibility for major developments associated with public roadways. The commenters requested that the rule continue to allow spatial distribution of smaller stormwater management measures "to the maximum extent practical" for public roadway projects and that the CMP state that it will incorporate any future amendments to the NJDEP's stormwater management rules, N.J.A.C. 7:8-5 and 6, that provide flexibility for green infrastructure for roadways. (6, 8, and 11)

RESPONSE: The Commission believes the proposed amendments provide sufficient flexibility for the placement of BMPs for major development associated with public roadways. These measures may include the use of two or more infiltration swales, bioretention basins, or vegetated conveyance swales situated on opposite sides of a roadway, or the use of subsurface porous infiltration pipe within linear stone trenches along portions of the proposed road improvements. Public roadway and other public projects that cannot meet the Commission's amended stormwater rules will continue to have the opportunity to request and receive "exceptions" in accordance with N.J.A.C. 7:50-6.84(a)6vii, and by incorporation, N.J.A.C. 7:8-4.6.

Should the NJDEP adopt amendments at N.J.A.C. 7:8-4.6, 5, and 6 in the future, such amendments will automatically be applicable to development in the Pinelands Area by virtue of the cross-references contained at N.J.A.C. 7:50-6.84(a)6 and (a)6vii(1) and (2), provided that the amendments are not inconsistent with the modifications and supplementary provisions expressly set forth in the CMP. The words "as amended" were mistakenly deleted from the introductory paragraph at N.J.A.C. 7:50-6.84(a)6 and are being restored upon adoption of these amendments. Additionally, the Commission may choose to engage in a future rulemaking process, akin to the one it undertook in 2006 and this one, should the NJDEP promulgate significant amendments to its stormwater management regulations that require modification for the Pinelands Area.

35. COMMENT: Three commenters requested that the pretreatment requirement at N.J.A.C. 7:50-6.84(a)6v(5) specifically indicate that sediment forebays within a basin meet the pretreatment criteria. (6, 8, and 11)

RESPONSE: The use of sediment forebays as a method of pretreatment has been accepted, and will continue to be accepted, as a method of pretreating stormwater prior to entering a basin. The Commission has chosen not to identify specific methods of pretreatment in the rule, given that many different structural and non-structural methods may be acceptable. Additionally, the Commission wishes to allow flexibility for the use of future technologies and methods to meet this standard.

36. COMMENT: Two commenters stated that the proposed requirement that "methods of treating stormwater prior to entering any stormwater management measure shall be incorporated into the design of the stormwater management measure to the maximum extent practical" needs to be better defined. The commenters asked the Commission to identify the other methods of treating stormwater that are not stormwater management measures and asked how one incorporates these other methods of treatment into the design of the stormwater management measure if they are not part of the stormwater management measure. (10 and 14)

RESPONSE: The requirement to pretreat stormwater "to the maximum extent practical" is in the existing rule, recodified at N.J.A.C. 7:50-6.84(a)6v(5), and the requirement itself is not part of the proposed amendments. The Commission is merely proposing to separate this requirement from the other standards in that provision. As stated in the Response to Comment 35, the Commission has chosen not to identify specific methods of pretreatment in the rules as it recognizes that many different structural and non-structural methods may be acceptable. The Commission also wishes to allow flexibility for the use of future technologies and methods to meet this standard.

Exceptions (recodified N.J.A.C. 7:50-6.84(a)6vii)

37. COMMENT: Three commenters stated that a waiver from full compliance with CMP stormwater standards should be available for public roadway projects to recognize the benefit versus the impact of having to place required infiltration BMP in ecologically valuable areas. They offered the example of a major development project that increases impervious area by 100 square feet in a HUC-14 watershed and the feasible locations of infiltration BMPs are in environmentally sensitive areas, such as threatened/endangered species habitats.) (6, 8, and 11)

RESPONSE: The Commission shares the commenters' concern regarding the potential impact of infiltration BMPs within environmentally sensitive areas. Both the existing rule, recodified at N.J.A.C. 7:50-6.84(a)6vii, and the proposed amendments (through incorporation of N.J.A.C. 7:8-4.6) provide methods of managing stormwater offsite if the applicant demonstrates that it is technically impracticable to meet one or more of the design and performance standards on-site. As part of this analysis in the proposed amendments, technical impracticability exists when the design and performance standard cannot be met for engineering, environmental, or safety reasons. Should that determination be made, N.J.A.C. 7:50-6.84(a)6vii provides the Commission with the ability to grant an exception from CMP stormwater standards for a major public development project. As is the case under the existing rules, that exception will carry with it an obligation for offsite mitigation.

As discussed in the Response to Comment 16, the Commission does not believe it is necessary or appropriate to provide for waivers from full compliance with the proposed amendments for public roadway or any other projects in the Pinelands Area without mitigation.

38. COMMENT: A commenter requested that the Commission adopt the NJDEP's provisions for waivers and exemptions for public development projects, allow for grandfathering, or delay application of the new standards after the rule is adopted. The commenter expressed concern that the absence of these provisions will make the transition to these revised regulatory standards very challenging for active applicants in various stages of design, including critically needed infrastructure projects that meet the definition of a major development. (11)

RESPONSE: Given the important natural resources it is charged with protecting, the Commission does not believe that adoption of the NJDEP's waiver and exemption standards for public development projects is appropriate in the Pinelands Area. Both the current CMP and the proposed amendments provide the Commission with the ability to grant an exception and allow for off-site mitigation for public development projects that cannot meet the on-site design and performance standards for green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quality for public development projects. These exception provisions have been in effect since 2006, and the Commission believes they will continue to be sufficient and appropriate.

The commenter's concern with the transition to the revised stormwater standards is valid and acknowledged. As is the case following adoption of any set of CMP amendments, the Commission will develop an implementation schedule that takes into consideration projects at various stages of the application process.

39. COMMENT: Two commenters noted a cross-reference error at N.J.A.C. 7:50-6.84(a)6vii(2), which refers to the first part of the recharge standards at sub-subparagraph (a)6iv(1), instead of the off-site mitigation requirements at sub-sub-subparagraph (a)6vii(1)(A). (11 and 12)

RESPONSE: The Commission thanks the commenter for noting the cross-reference error, which has been corrected in this adoption.

40. COMMENT: A commenter noted an incorrect cross-reference at N.J.A.C. 6:84(a)6vii(2), which states that "the Commission may grant an exception in accordance with the standards described at N.J.A.C. 7:50-4.6, as amended ..." N.J.A.C. 7:50-4.6 is a reserved section. (6)

RESPONSE: The Commission thanks the commenter for noting the error, which has been corrected to "N.J.A.C. 7:8-4.6" upon adoption. This corrected citation references the standards in the NJDEP's stormwater management rule for granting municipal variances from the design and performance standards for stormwater management measures. By incorporating this provision into N.J.A.C. 7:50-6:84(a)6vii(2), the Commission will be applying these same standards to exceptions from the

on-site design and performance standards for green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quality and on-site recharge standards for public development projects.

41. COMMENT: Two commenters expressed support for the requirement that mitigation projects approved by variance be located within either the same HUC-14 or HUC-11 watershed as the parcel proposed for development, but requested that the provision be amended to allow the mitigation project to be located outside the Pinelands Area. (5 and 7)

RESPONSE: As stated in the Response to Comment 4, pursuant to the Pinelands Protection Act, the Commission's jurisdiction is limited to the boundaries of the State-designated Pinelands Area. Given that the Commission would not be able to approve or regulate mitigation projects conducted outside of the Pinelands Area, locating mitigation projects outside the Pinelands Area to address regulatory obligations within the Pinelands Area is not appropriate.

Maintenance Standards (recodified N.J.A.C. 7:50-6.84(a)6viii)

42. COMMENT: Several commenters expressed support for the maintenance plan requirements for major and minor development, but noted that maintenance plans must be enforced because improper maintenance and monitoring of stormwater infrastructure can lead to malfunction or contribute to worsening stormwater issues. The commenters noted that failure to maintain stormwater management infrastructure is a documented, common, and serious problem that results in adverse impacts to water quality in watersheds and coastal waterbodies, such as Barnegat Bay. (1, 5, and 7)

RESPONSE: The Commission appreciates the commenters' support of the maintenance plan requirements. While the Commission understands the commenters' concerns, it notes that the respective municipalities are responsible for enforcing implementation of stormwater maintenance plans, as required by the conditions in each municipality's Municipal Separate Storm Sewer System (MS4) NJPDES Permit. Further, it should be noted that major developments must include a deed notice on the property, which describes the stormwater management measures associated with the project and includes the location of each in NAD 1983 State Plan New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The referenced maintenance plans must also be attached to the deed.

43. COMMENT: Two commenters stated that the responsibility for maintenance of stormwater management measures should be restricted to measures that only collect runoff from the owner/tenant parcel. (10 and 14)

RESPONSE: Because improperly maintained stormwater BMPs impact the natural resources of the Pinelands environment, as well as adjacent properties and roadways, the Commission disagrees with the commenters and will continue to require that all stormwater BMPs be maintained in accordance with the proposed amendments.

Federal Standards Statement

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. § 471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands National Reserve. The original plan adopted in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals that the plan must meet, including the protection, preservation, and enhancement of the land and water resources of the Pinelands. The adopted amendments are designed to meet those goals by imposing stringent stormwater management requirements on development in the Pinelands Area, which will provide greater protection of the Pinelands resources.

The Federal Clean Water Act (33 U.S.C. §§ 251 et seq.) regulates stormwater runoff and nonpoint source pollution control. The Federal Clean Water Act requires permits under Section 402 of that Act (33 U.S.C. § 1342) for certain stormwater discharges. Section 319 of the Clean Water Act (33 U.S.C. § 1329) authorizes a Federal grant-in-aid program to encourage states to control nonpoint sources. The Commission's existing and amended rules are designed to control stormwater and minimize nonpoint source pollution and are fully consistent with the Federal requirements.

There are no other Federal requirements which apply to the subject matter of the amendments.

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

SUBCHAPTER 2. INTERPRETATIONS AND DEFINITIONS

7:50-2.11 Definitions

When used in this Plan, the following terms shall have the meanings ascribed to them.

...
 "HUC-11" or "hydrologic unit code 11" means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by an 11-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

"HUC-14" or "hydrologic unit code 14" means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

...

SUBCHAPTER 3. CERTIFICATION OF COUNTY, MUNICIPAL, AND FEDERAL INSTALLATION PLANS

7:50-3.39 Standards for certification of municipal master plans and land use ordinances

(a) Municipal master plans and land use ordinances, and any parts thereof, shall be certified only if:

1. (No change.)
2. They include provisions that:
- i.-vii. (No change.)

viii. Establish and implement a mitigation plan as part of any municipal stormwater management plan and ordinance adopted in accordance with N.J.A.C. 7:8-4.2(c)11 that:

(1) Identifies those measures necessary to offset the granting of variances from the standards set forth at N.J.A.C. 7:50-6.84(a)6i through v;

(2) Specifies that variances from the standards set forth at N.J.A.C. 7:50-6.84(a)6i through v will be considered only in cases where an applicant is able to demonstrate in accordance with N.J.A.C. 7:8-4.6 that such standards cannot be met on a particular parcel; and

(3) Requires that any mitigation measures identified pursuant to (a)2viii(1) above occur within the Pinelands Area and within the same HUC-14 as the parcel proposed for development, unless no such mitigation project is available, in which case the mitigation measures shall be located within the Pinelands Area and same HUC-11 as the parcel proposed for development; and

- ix. (No change.)
- 3.-13. (No change.)
- (b) (No change.)

SUBCHAPTER 6. MANAGEMENT PROGRAMS AND MINIMUM STANDARDS

7:50-6.84 Minimum standards for point and non-point source discharges

(a) The following point and non-point sources may be permitted in the Pinelands:

- 1.-5. (No change)
6. Surface water runoff in accordance with N.J.A.C. 7:8-4.6, 5, and 6, **as amended**,* except as modified and supplemented*,* as follows:

i. For purposes of this section, the definition of terms adopted by the New Jersey Department of Environmental Protection at N.J.A.C. 7:8-1.2 are incorporated herein by reference, unless a term is defined differently at N.J.A.C. 7:50-2.11, in which case the definition in this chapter shall apply.

ii. Runoff rate and volume, runoff quality, and groundwater recharge methodologies:

(1) Stormwater runoff rates and volumes shall be calculated in accordance with N.J.A.C. 7:8-5.7, except that the Rational Method for peak flow and the Modified Rational Method for hydrograph computations shall not be used; and

(2) In calculating stormwater runoff using the NRCS methodology, the appropriate 24-hour rainfall depths as developed for the parcel by the National Oceanic and Atmospheric Administration, https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=nj, shall be utilized.

iii. Runoff shall meet the requirements at N.J.A.C. 7:8-5.6 and (a)6iii(1) and (2) below:

(1) There shall be no direct discharge of stormwater runoff from any point or nonpoint source to any wetland, wetlands transition area, or surface waterbody. In addition, stormwater runoff shall not be directed in such a way as to increase the volume and rate of discharge into any wetlands, wetlands transition area, or surface water body from that which existed prior to development of the parcel; and

(2) To the maximum extent practical, there shall be no direct discharge of stormwater runoff onto farm fields to protect farm crops from damage due to flooding, erosion, and long-term saturation of cultivated crops and cropland.

iv. Recharge standards:

(1) For all major development, as defined at N.J.A.C. 7:50-2.11, the total runoff volume generated from the net increase in impervious surfaces by a 10-year, 24-hour storm shall be retained and infiltrated onsite;

(2) For all minor development, as defined at N.J.A.C. 7:50-2.11, that involves the construction of four or fewer dwelling units, the runoff generated from the total roof area of the dwelling(s) by a 10-year, 24-hour storm shall be retained and infiltrated*,* as follows:

(A) Installation of one or more green infrastructure stormwater management measures designed in accordance with the New Jersey Stormwater Best Management Practices (BMP) Manual as defined at N.J.A.C. 7:8-1, incorporated herein by reference, as amended and supplemented, and available at https://www.nj.gov/dep/stormwater/bmp_manual2.htm (hereinafter referred to as "BMP Manual" or "New Jersey Stormwater Best Management Practices Manual"). Appropriate green infrastructure stormwater management measures include, but are not limited to:

- I*.* Dry wells;
- II*.* Pervious pavement systems; and
- III*.* Small scale bioretention systems, including rain gardens;

(3) For minor development, as defined at N.J.A.C. 7:50-2.11, that involves any nonresidential use, the following standards shall apply:

(A) If the proposed development will result in an increase of ***greater than*** 1,000 square feet *[or more]* of regulated motor vehicle surfaces as defined at N.J.A.C. 7:8-1.2, the stormwater runoff quality standards *[contained]* at N.J.A.C. 7:8-5.5 shall apply. The water quality design storm volume generated from these surfaces shall be recharged onsite; and

(B) If the proposed development involves the grading, clearing, or disturbance of an area in excess of 5,000 square feet within any five-year period, the standards for major development set forth at (a)6i through ix shall also apply;

(4) In order to demonstrate compliance with the requirements at (a)6iv(2) or (3) above, applications for minor development shall include at least the following information:

(A) A plan, certified by a design engineer, that includes the type and location of each green infrastructure stormwater management measure and a cross section drawing of each such measure showing the associated soil profile, soil permeability test elevation, soil permeability rate, and the elevation of, and vertical separation to, the seasonal high water table;

(B) A design engineer's certification that each green infrastructure stormwater management measure will not adversely impact basements or septic systems of the proposed development;

(5) In high pollutant loading areas (HPLA) and areas where stormwater runoff is exposed to source material, as defined at N.J.A.C. 7:8-5.4(b)3i and ii, the following additional water quality standards shall apply:

(A) (No change.)

(B) The stormwater runoff originating from HPLAs and areas where stormwater runoff is exposed to source material shall be segregated and prohibited from co-mingling with stormwater runoff originating from the

remainder of the parcel unless it is first routed through one or more stormwater management measures required at (a)6iv(5)(C) below;

(C) The stormwater runoff from HPLAs and areas where stormwater runoff is exposed to source material shall incorporate stormwater management measures designed to reduce the post-construction load of total suspended solids (TSS) by at least 90 percent in stormwater runoff generated from the water quality design storm established at N.J.A.C. 7:8-5.5(d) using one or more of the measures identified at (a)6iv(5)(C)I and II below. In meeting this requirement, the minimum 90 percent removal of total suspended solids may be achieved by utilizing multiple stormwater management measures in series:

I*.* Any measure designed in accordance with the New Jersey Stormwater Best Management Practices Manual to remove total suspended solids. Any such measure must be constructed to ensure that the lowest point of infiltration within the measure maintains a minimum of two feet of vertical separation from the seasonal high-water table; and

II*.* (No change in text.)

(D) If the potential for contamination of stormwater runoff by petroleum products exists onsite, prior to being conveyed to the stormwater management measure required at (a)6iv(5)(C) above, the stormwater runoff from the HPLAs and areas where stormwater runoff is exposed to source material shall be conveyed through an oil/grease separator or other equivalent manufactured filtering device providing for the removal of petroleum hydrocarbons.

(6) For all major development, as defined at N.J.A.C. 7:50-2.11, stormwater management measures shall be designed to achieve a minimum of 65 percent reduction of the post-construction total nitrogen load from the developed site, including *those* permanent lawn or turf areas that are specifically intended for active human use as described at N.J.A.C. 7:50-6.24(c)3, in stormwater runoff generated from the water quality design storm. In achieving a minimum 65 percent reduction of total nitrogen, the design of the site shall include green infrastructure in accordance with the BMP Manual and shall optimize nutrient removal. The minimum 65 percent total nitrogen reduction may be achieved by using a singular stormwater management measure or multiple stormwater management measures in series.

v. Stormwater management measure design, siting, and construction standards:

(1) Stormwater management measures designed to infiltrate stormwater shall be designed, constructed, and maintained to provide a minimum separation of at least two feet between the elevation of the lowest point of infiltration and the seasonal high water table;

(2) Stormwater management measures designed to infiltrate stormwater shall be sited in suitable soils verified by testing to have permeability rates between one and 20 inches per hour. A factor of safety of two shall be applied to the soil's permeability rate in determining the infiltration measure's design permeability rate. If such soils do not exist on the parcel proposed for development or if it is demonstrated that it is not practical for engineering, environmental, or safety reasons to site the stormwater infiltration measure(s) in such soils, the stormwater infiltration measure(s) may be sited in soils verified by testing to have permeability rates in excess of 20 inches per hour, provided that stormwater is routed through a bioretention system prior to infiltration. Said bioretention system shall be designed, installed, and maintained in accordance with the New Jersey Stormwater Best Management Practices Manual;

(3) For all major development, as defined at N.J.A.C. 7:50-2.11, groundwater mounding analysis shall be required for purposes of assessing the hydraulic impacts of mounding of the water table resulting from infiltration of stormwater runoff from the maximum storm designed for infiltration. The mounding analysis shall provide details and supporting documentation on the methodology used. Groundwater mounds shall not cause stormwater or groundwater to breakout to the land surface or cause adverse impacts to adjacent water bodies, wetlands, or subsurface structures, including, but not limited to, basements and septic systems. Where the mounding analysis identifies adverse impacts, the stormwater management measure shall be redesigned or relocated, as appropriate;

(4) The use of stormwater management measures that are smaller in size and distributed spatially throughout a parcel, rather than the use of a single, larger stormwater management measure shall be required;

(5) Methods of treating stormwater prior to entering any stormwater management measure shall be incorporated into the design of the stormwater management measure to the maximum extent practical;

(6) To avoid sedimentation that may result in clogging and reduction of infiltration capability and to maintain maximum soil infiltration capacity, the construction of stormwater management measures that rely upon infiltration shall be managed in accordance with the following standards:

(A) No stormwater management measure shall be placed into operation until its drainage area has been completely stabilized. Instead, upstream runoff shall be diverted around the measure and into separate, temporary stormwater management facilities and sediment basins. Such temporary facilities and basins shall be installed and utilized for stormwater management and sediment control until stabilization is achieved in accordance with N.J.A.C. 2:90, Standards for Soil Erosion and Sediment Control in New Jersey;

(B) If, for engineering, environmental, or safety reasons, temporary stormwater management facilities and sediment basins cannot be constructed on the parcel in accordance with (a)6v(6)(A) above, the stormwater management measure may be placed into operation prior to the complete stabilization of its drainage area provided that the measure's bottom during this period is constructed at a depth at least two feet higher than its final design elevation. When the drainage area has been completely stabilized, all accumulated sediment shall be removed from the stormwater management measure, which shall then be excavated to its final design elevation; and

(C) To avoid compacting the soils below a stormwater management measure designed to infiltrate stormwater, no heavy equipment, such as backhoes, dump trucks, or bulldozers shall be permitted to operate within the footprint of the stormwater management measure. All excavation required to construct a stormwater management measure that relies on infiltration shall be performed by equipment placed outside the footprint of the stormwater management measure. If this is not possible, the soils within the excavated area shall be renovated and tilled after construction is completed. Earthwork associated with stormwater management measure construction, including excavation, grading, cutting, or filling, shall not be performed when soil moisture content is above the lower plastic limit; and

(7) Dry wells shall be designed to prevent access by amphibian and reptiles.

vi. As-built requirements for major development, as defined at N.J.A.C. 7:50-2.11:

(1) After all construction activities have been completed on the parcel and finished grade has been established in each stormwater management measure designed to infiltrate stormwater, replicate post-development permeability tests shall be conducted to determine if as-built soil permeability rates are consistent with design permeability rates. The results of such tests shall be submitted to the municipal engineer or other appropriate reviewing engineer. If the results of the post-development permeability tests fail to achieve the minimum required design permeability rate, utilizing a factor of safety of two, the stormwater management measure shall be renovated and re-tested until the required permeability rates are achieved; and

(2) After all construction activities and required testing have been completed on the parcel, as-built plans, including as-built elevations of all stormwater management measures shall be submitted to the municipal engineer or other appropriate reviewing engineer to serve as a document of record. Based upon that engineer's review of the as-built plans, all corrections or remedial actions deemed necessary due to the failure to comply with design standards and/or for any reason concerning public health or safety, shall be completed by the applicant. In lieu of review by the municipal engineer, the municipality may engage a licensed professional engineer to review the as-built plans and charge the applicant for all costs associated with such review.

vii. Exceptions:

(1) For applications submitted pursuant to N.J.A.C. 7:50-4.31 through 4.50, a municipality may grant a variance in accordance with N.J.A.C.

7:8-4.6, as amended, from the on-site design and performance standards for green infrastructure, the standards for groundwater recharge, stormwater runoff quality, and stormwater runoff quality at N.J.A.C. 7:8-5.3, 5.4, 5.5, and 5.6, and the on-site recharge standards set forth at (a)6iv above, provided that:

(A) All mitigation projects shall be located in the Pinelands Area and in the same HUC-14 as the parcel proposed for development. If the applicant demonstrates that no such mitigation project is available, the municipality may approve a variance that provides for mitigation within the same HUC-11 as the parcel proposed for development, provided the mitigation project is located in the Pinelands Area;

(B) The proposed mitigation project shall be consistent with the stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 for the municipality in which the parcel proposed for development is located, unless said stormwater plan does not identify appropriate parcels or projects where mitigation may occur; and

(C) Any variance from the on-site recharge standards set forth at (a)6iv above shall require that the total volume of stormwater infiltrated by the mitigation project equals or exceeds the volume required at (a)6iv above.

(2) For applications submitted pursuant to N.J.A.C. 7:50-4.51 through 4.60, the Commission may grant an exception in accordance with the standards described at N.J.A.C. *7:50**7:8*-4.6, as amended, from the on-site design and performance standards for green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quality at N.J.A.C. 7:8-5.3, 5.4, 5.5, and 5.6 and on-site recharge standards set forth at (a)6iv above, provided the conditions set forth at (a)6iv(1)*(A)* above are met.

(3) Unless specifically included at (a)6iv(1) and (2) above, the exemptions, exceptions, applicability standards, and waivers of strict compliance for stormwater management described at N.J.A.C. 7:8 shall not apply.

(4) No variances or exceptions shall be granted from (a)6iii(1) above, which prohibits the direct discharge of stormwater runoff to any wetlands, wetlands transition area, or surface waterbody and the direction of stormwater runoff in such a way as to increase in volume and rate of discharge into any wetlands, wetlands transition area, or surface water body from that which existed prior to development of the parcel.

viii. Maintenance standards:

(1) For all major development, as defined at N.J.A.C. 7:50-2.11, the following standards shall apply:

(A) Maintenance plans shall be required pursuant to N.J.A.C. 7:8-5.8 and shall be supplemented to include reporting of inspection and repair activities. Said plans shall include accurate and comprehensive drawings of all stormwater management measures on a parcel, including the specific latitude and longitude and block/lot number of each stormwater management measure. Maintenance plans shall specify that an inspection, maintenance, and repair report will be updated and submitted annually to the municipality;

(B) (No change in text.)

(C) An adequate means of ensuring permanent financing of the inspection, maintenance, repair, and replacement plan shall be implemented and shall be detailed in the maintenance plan. Financing methods shall include, but not be limited to:

I*.* The assumption of the inspection and maintenance program by a municipality, county, public utility, or homeowners association;

II*.* (No change in text)

(2) For all minor development, as defined at N.J.A.C. 7:50-2.11, the following standards shall apply:

(A) Maintenance plans shall be required for all stormwater management measures installed in accordance with (a)6iv(2) and (3) above. The BMP Manual may be utilized as a guide for developing maintenance plans that shall include, at a minimum:

I*.* A copy of the certified plan required pursuant to (a)6iv(4) above;

II*.* A description of the required maintenance activities for each stormwater management measure; and

III*.* The frequency of each required maintenance activity; and

(B) Responsibility for maintenance of stormwater management measures may be assigned or transferred to the owner or tenant of the parcel.

ix. Unless specifically mandated pursuant to (a)6i through viii above, the New Jersey Stormwater Best Management Practices Manual may be utilized as a guide in determining the extent to which stormwater management activities and measures meet the standards of (a)6i through viii above.

(a)

SITE REMEDIATION AND WASTE MANAGEMENT

Notice of Readoption

Solid Waste Utility Regulations

Readoption: N.J.A.C. 7:26H

Authority: N.J.S.A. 13:1E-1 et seq., 13:1B-3, 13:1D-9, 48:3-1 et seq., 48:13A-1 et seq., and 48:13A-7.1 et seq.

Authorized By: Shawn LaTourette, Commissioner, Department of Environmental Protection.

Effective Date: December 15, 2021.

New Expiration Date: December 15, 2028.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the Solid Waste Utility Regulations at N.J.A.C. 7:26H are readopted and shall continue in effect for a seven-year period. The rules were scheduled to expire on March 9, 2022. The Department of Environmental Protection (Department) has reviewed these rules and has determined that the rules should be readopted, without change. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c, timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The Solid Waste Utility Regulations, N.J.A.C. 7:26H, regulate the economic aspects of the solid waste industry as outlined in the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq., and contain the general requirements applicable to companies engaged in the collection and/or disposal of solid waste in the State. No one may engage in solid waste collection or disposal without first obtaining a Certification of Public Convenience and Necessity from the Department; accordingly, the rules establish the requirements for obtaining and maintaining such a certification, and the regulation of these companies as solid waste public utilities. The rules govern the economic aspects of solid waste collection and disposal, including the filing, maintaining, and modifying the schedule of rates and charges for solid waste collection and disposal (also called a "tariff"). Tariffs must be filed with the Department and are available for review by customers and competitors to allow customers to identify the most favorable rates and to promote fair and effective competition within the solid waste industry.

In the event a solid waste utility intends to sell or mortgage its assets, merge with another company, or issue stock or other securities, it must first obtain Department approval through submittal of a petition. The rules provide the procedures for filing a petition for Department review and approval, and the rules of practice of the Division of Solid and Hazardous Waste, which makes determinations on these petitions.

The chapter also provides uniform specifications for municipal solid waste collection contracts, which require every municipality that contracts for solid waste collection services to award contracts in conformance with applicable requirements, including the Local Public Contracts Law, N.J.S.A. 40A-11 et seq., to promote fair competition among solid waste collectors, protect consumers, and enhance the Department's ability to supervise effective competition.