

Stormwater Management Rules Applicability and Amendments

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How is Post-construction Stormwater Managed in NJ?

- Stormwater Management rules at N.J.A.C. 7:8
 - Compliance required through permits issued by the NJDEP-Division of Land Use Regulation
 - Direct Implementation by NJDEP
 - Compliance required through MS4 Permits issued by the NJDEP-DWQ-Bureau of Nonpoint Pollution Control
 - Implementation by municipality
 - RSIS for residential projects
 - Stormwater Control Ordinance for non-residential projects

Amendments to Stormwater Management Rules

- Dec. 3, 2018: NJDEP proposed amendments to the Stormwater Management rules.
- Jan. 8, 2019: Public Hearing
- Feb. 1, 2019: Close of 60-day public comment period
- Dec. 3, 2019: NJDEP filed adoption package to OAL
- March 2, 2020: Adoption of Rule
 - One year delayed operative date, effective 3-2-2021
 - Current rules are in effect until 3-1-2021
 - Same timeframe municipalities have to update ordinances in accordance with MS4 permits

What Projects Must Comply?

- “Major Development” means an individual “development,” as well as multiple developments that individually or collectively result in:
 1. The disturbance of one or more acres of land since February 2, 2004;
 2. The creation of one-quarter acre or more of “regulated impervious surface” since February 2, 2004;
 3. The creation of one-quarter acre or more of “regulated motor vehicle surface” since March 2, 2021; or
 4. A combination of 2 and 3 above that totals an area of one-quarter acre or more.
- If reviewed by the municipality
 - Through RSIS – ultimate disturbance of one acre or more
 - Through Stormwater Control Ordinance – as defined in ordinance (but must at least cover projects where the ultimate disturbance is one acre or more)

Rule Layout – Existing/Prior to Adoption

SUBCHAPTER 5. DESIGN AND PERFORMANCE STANDARDS FOR STORMWATER MANAGEMENT MEASURES

7:8-5.1 Scope

7:8-5.2 Stormwater management measures for major development

7:8-5.3 Nonstructural stormwater management strategies

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

7:8-5.5 Stormwater runoff quality standards

7:8-5.6 Calculation of stormwater runoff and groundwater recharge

7:8-5.7 Standards for structural stormwater management measures

7:8-5.8 Maintenance requirements

7:8-5.9 Sources for technical guidance

Rule Layout Re-arrangement

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7:8-5.1 Scope

7:8-5.2 Stormwater management measures for major development

7:8-5.3 ~~Nonstructural stormwater management strategies~~ GI

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

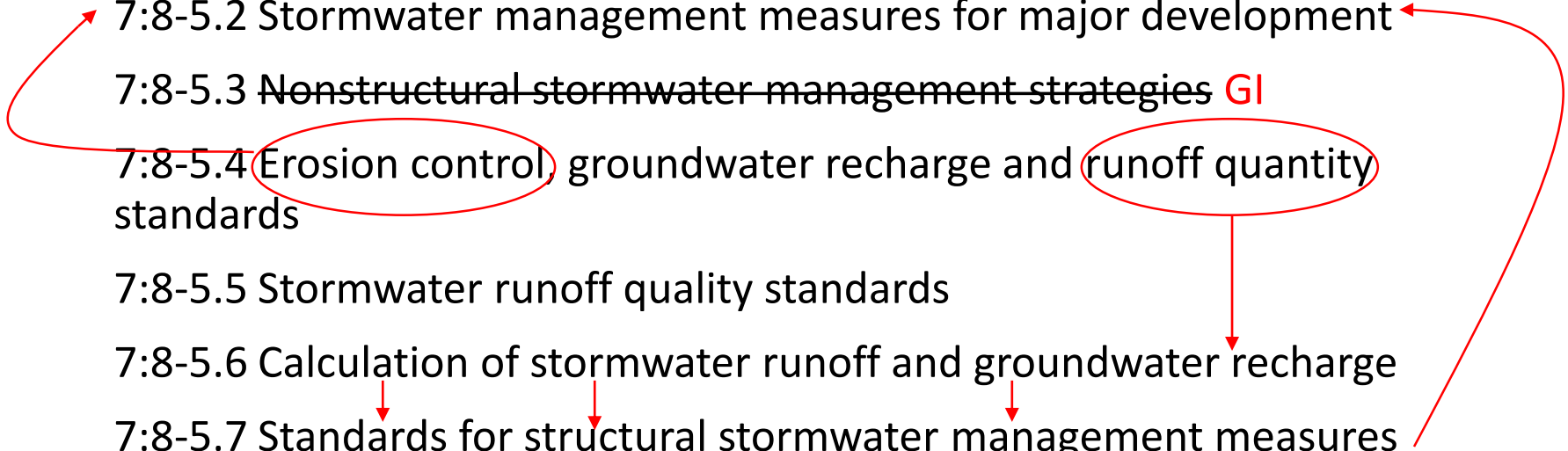
7:8-5.5 Stormwater runoff quality standards

7:8-5.6 Calculation of stormwater runoff and groundwater recharge

7:8-5.7 Standards for structural stormwater management measures

7:8-5.8 Maintenance requirements

7:8-5.9 Sources for technical guidance



Rule Layout – As Adopted

SUBCHAPTER 5. DESIGN AND PERFORMANCE STANDARDS FOR STORMWATER MANAGEMENT MEASURES

7:8-5.1 Scope

7:8-5.2 Stormwater management measures for major development

7:8-5.3 Green infrastructure

7:8-5.4 Groundwater recharge standards

7:8-5.5 Stormwater runoff quality standards

7:8-5.6 Stormwater runoff quantity standards

7:8-5.7 Calculation of stormwater runoff and groundwater recharge

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7:8-5.9 Sources for technical guidance

Green Infrastructure Definition

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

Means a stormwater management measure that manages stormwater close to its source by:

1. Treating stormwater runoff through infiltration into subsoil;
2. Treating stormwater runoff through filtration by vegetation or soil; or
3. Storing stormwater runoff for reuse.

Green Infrastructure Standard

N.J.A.C. 7:8-5.3

- GI BMPs must be used to satisfy recharge, quantity, and quality
 - Small-scale (limited drainage area) for recharge and quality
- 3 Tables identifying the performance of each BMP in meeting the 3 standards
 - Table 5-1: Recharge, Quality, and Quantity Control
 - Table 5-2: Quantity Control
 - Table 5-3: Recharge, Quality, and Quantity Control ONLY with Waiver or Variance
- Maintain existing ability to propose an alternative stormwater design. Alternative design must meet GI definition and must meet drainage area limitation if similar to BMP with limit.

Table 5-1: BMPs for recharge, quantity, and quality

Best Management Practice	Quality TSS removal rate (percent)	Quantity	Recharge	Minimum separation from seasonal high water table (feet)
Cisterns	0	Yes	No	-
Dry Wells	0	No	Yes	2
Grass Swales	50 or less	No	No	2
Green Roofs	0	Yes	No	-
Manufactured Treatment Device (MTDs)	50 or 80	No	No	Dependent upon the device
Pervious Paving Systems	80	Yes	Yes	2
			No	1
Small-scale Bioretention Systems	80 or 90	Yes	Yes	2
			No	1
Small-scale Infiltration Basins	80	Yes	Yes	2
Small-scale Sand Filters	80	Yes	Yes	2
Vegetative Filter Strips	60-80	No	No	-

Drainage area limitation applies to: dry wells, MTDs, pervious paving system, and small-scale bioretention, infiltration, and sand filters.

Table 1 only includes MTDs that meet the definition of GI

Table 5-2: BMPs may only be used for quantity

Best Management Practice	Quality TSS removal rate (percent)	Quantity	Recharge	Minimum separation from seasonal high water table (feet)
Bioretention Systems	80 or 90	Yes	Yes	2
			No	1
Infiltration Basins	80	Yes	Yes	2
Sand Filter	80	Yes	Yes	2
Standard Constructed Wetlands	90	Yes	No	N/A
Wet Ponds	50-90	Yes	No	N/A

Wet ponds used under Table 2 must be designed to have native vegetation and a reuse component

Table 5-3: BMPs may only be used with waiver

Best Management Practice	Quality TSS removal rate (percent)	Quantity	Recharge	Minimum separation from seasonal high water table (feet)
Blue Roofs	0	Yes	No	N/A
Extended Detention Basins	40-60	Yes	No	1
Manufactured Treatment Device	50 or 80	No	No	Dependent upon the device
Sand Filters	80	Yes	No	1
Subsurface Gravel Wetlands	90	No	No	1
Wet ponds	50-90	Yes	No	N/A

Water Quality – Motor Vehicle Surface

- The water quality standard will apply to motor vehicle surface instead of impervious surface
 - Rule does not require roofs or sidewalks to be treated – consistent with current implementation
 - Requires pervious motor vehicle surfaces to be treated – consistent with scientific studies
- Include in definition of major development
 - “regulated motor vehicle surface”

Definitions to Clarify Applicability

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

- Added definition of “regulated motor vehicle surface”
- Added definition of “regulated impervious surface”
- Definitions of regulated motor vehicle surface and regulated impervious surface will include FAQ 10.2 (newly collected impervious surface and changes to existing drainage systems count as “new”)

Clarification of Applicability

- Require quantity, quality, and groundwater recharge to be met in each drainage area on-site (unless they converge before leaving the property)
 - N.J.A.C. 7:8-5.2(l)
- Move mounding analysis requirement from recharge standard to apply to all infiltration BMPs
 - N.J.A.C. 7:8-5.2(h)
 - Chapter 13 of BMP Manual

Deed Notice

- Remove rule requirement for conservation restriction, or equivalent, for nonstructural strategies
- Maintain existing requirement that maintenance plans be recorded on deed (new N.J.A.C. 7:8-5.2(m)) and, additionally, must now include:
 - Description of the BMP(s); and
 - Location information for the BMP(s)
- Provide a pathway for property owner to alter or replace a BMP provided review agency ensures quantity, quality, and recharge will be maintained. (new N.J.A.C. 7:8-5.2(n))

CSO Related Changes

- Clarify that water quality treatment is required for discharges into combined sewer systems
 - New N.J.A.C. 7:8-5.5(c)
- Clarify that water quantity control is required in tidal areas except discharges directly into lower reach of major tidal waterbodies
 - New N.J.A.C. 7:8-5.6(b)4
- Create the option for a community basin, which will allow several properties in a CSS community to use a single large basin for quantity control
 - Other standards must still be met on-site (including GI)
 - New N.J.A.C. 7:8-4.2(c)14

BMP Manual Changes

- Finalized new chapter on groundwater mounding (chapter 13)
- Released draft for public comment
 - Revised chapter on calculations (chapter 5)
 - Allows infiltration in GI BMPs
 - Revised soil testing (chapter 12)
 - Adds new soil testing requirements for distributed GI systems
- Revised model ordinance
- Additional changes to BMPs coming when chapter 5 is finalized

Existing Variance

N.J.A.C. 7:8-4.6

- Municipality may approve a variance or exemption if:
 - Municipal Stormwater Management Plan contains a mitigation plan:
 - that identifies what measures are necessary to offset the deficit created by granting the variance
 - ensures mitigation happens in the same drainage area and for the performance standard for which variance is granted
 - Municipality submits a written report to county review agency and DEP describing the variance or exemption and the required mitigation

Adopted Variance

N.J.A.C. 7:8-4.6

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

Adopted Variance – Mitigation

N.J.A.C. 7:8-4.6

- Mitigation:
 - selected from municipal mitigation plan or proposed by applicant, provided it meets the criteria within the municipal mitigation plan
 - be approved no later than preliminary or final site plan approval of the major development
 - be located in the same HUC 14 as the portion of the major development that was granted the variance
 - be constructed prior to or concurrent with the major development
 - comply with the green infrastructure standards at N.J.A.C. 7:8-5.3
 - Applicant or party responsible for the maintenance of the major development shall be responsible for maintenance of mitigation
 - Maintenance responsibility may only be transferred to a public agency, with a written agreement submitted to the review agency
- Approved variance must be submitted to county review agency and DEP within 30 days of approval

Adopted Variance – Mitigation

N.J.A.C. 7:8-4.6

- If variance is from green infrastructure
 - Mitigation project must provide green infrastructure BMPs to manage an equivalent or greater area and amount of impervious surface than the area of major development granted the variance
 - Vegetative filter strips and grass swales excluded as mitigation measures if used without other GI BMPs
 - GI BMPs used for mitigation must be sized to manage the Water Quality Design Storm (at a minimum)
 - GI BMPs used for mitigation are subject to a the drainage area limitation

Questions?

Think of one later?
ask any time:

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