

Proposed Amendments to the Stormwater Management Rules

Goals of the Proposal

1. Consistency
2. Predictability
3. Water Quality Improvements

Proposal published on December 3, 2018

Can be viewed at www.nj.gov/dep/rules

Public Hearing – January 8th @ 1pm in the Public Hearing Room

Public comment period closed on February 1, 2019

Existing Rule Layout

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

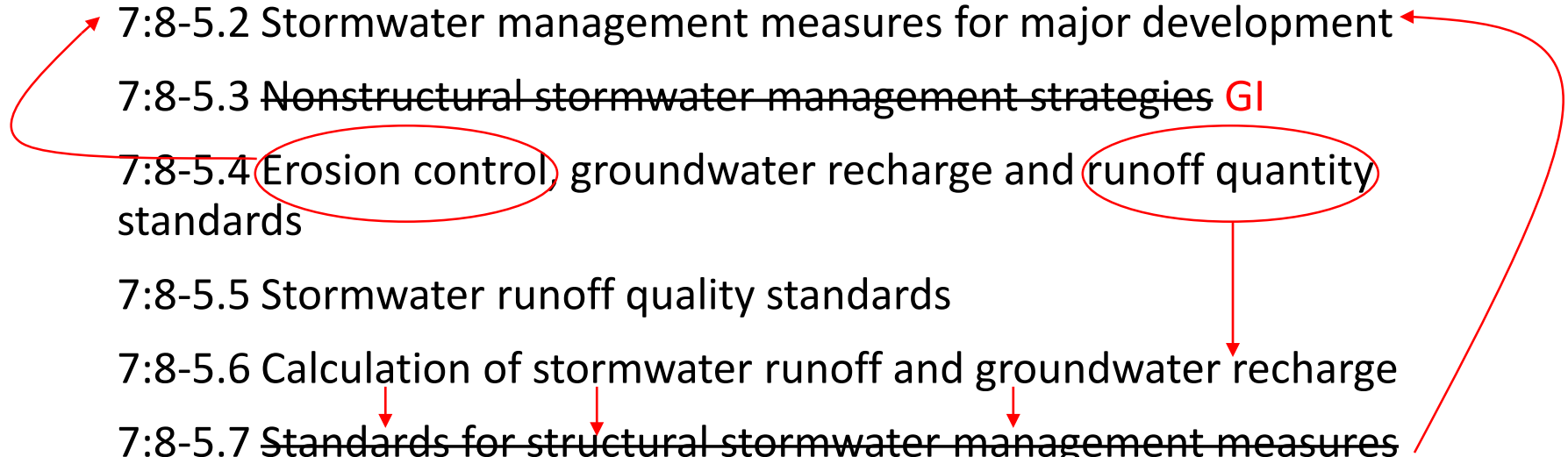
7:8-5.5 Stormwater runoff quality standards

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

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Proposed Rule Layout

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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

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Green Infrastructure Definition

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
3. Storing stormwater runoff for reuse.

Green Infrastructure Standard

- GI BMPs must be used to satisfy recharge, quantity, and quality
- 3 Tables identifying the performance of each BMP in meeting the 3 standards
 - Water Quality & Recharge – BMPs in Table 1
 - Quantity – BMPs in Table 1 or Table 2
 - If received a variance – BMPs in Table 1, Table 2, or Table 3
- Maintain existing ability to propose an alternative stormwater design. Alternative design must meet GI definition and have a drainage area that meets DA limitations to meet GI standard.

Table 1

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
Cisterns	0	Yes	No	-
Dry Wells	0	No	Yes	2
Grass Swales	50 or less	No	No	2
Green Roofs	0	Yes	No	-
Infiltration Basins	80	Yes	Yes	2
Manufactured Treatment Device	50 or 80	No	No	Dependent upon the device
Pervious Paving Systems	80	Yes	Yes	2
			No	1
Sand Filters	80	Yes	Yes	2
Vegetative Filter Strips	60-80	No	No	-

Table 1 BMPs shall be used for recharge, quantity, and quality

Drainage area limitations: bioretention basins (2.5 acres), dry wells (1 acre), infiltration basins (2.5 acres), manufactured treatment devices (2.5 acres), and sand filters (2.5 acres).

Table 2

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
Standard Constructed Wetlands	90	Yes	No	N/A
Wet Ponds	50-90	Yes	No	N/A

Table 2 BMPs may only be used for quantity

Table 3

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

Table 3 BMPs may only be used if a variance is granted

Deed Notice

- Remove current rule requirement for conservation restriction, or equivalent, for non structural strategies (old N.J.A.C. 7:8-5.3(c))
- Maintain existing requirement that maintenance plans be recorded on deed (N.J.A.C. 7:8-5.8(d))
- Proposal to additionally require deed notice to include a description and location information for all BMPs.
- Proposal to provide a pathway for property owner to alter or replace a BMP provided review agency ensures quantity, quality, and recharge will be maintained.

Existing Variance

- 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

Proposed Variance

- 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

Proposed Variance - Mitigation

- 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 shall be responsible for maintenance, 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

Proposed Variance - Mitigation

- If variance is from recharge
 - Mitigation project must make up recharge deficit
- If variance is from quantity
 - H+H analysis to demonstrate no adverse impact
 - Mitigation project must discharge to same watercourse and be located upstream of major development
 - Mitigation project must provide peak flowrate attenuation for an area greater in size and/or imperviousness to the area granted variance
- If variance is from quality
 - Mitigation project must make up the TSS removal deficit
 - Mitigation project must remove nutrients to max. extent feasible

Proposed Variance - Mitigation

- 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
 - 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 same drainage area limitations as GI BMPs in tables

Effective Date

The proposal will include a 1 year delayed effective date in which the current rules will apply

- 1 year delay is same timeframe municipalities have to update ordinance in accordance with MS4 permit
- Will prevent projects in the pipeline from needing to be redesigned
- Will minimize number of projects subject to differing stormwater standards from various agencies

Water Quality – Motor Vehicle Surface

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

Clarification to Applicability

- Add definition of “new motor vehicle surface”
- Add definition of “new impervious surface”
- Change definition of major development to be 1 acre of disturbance, or $\frac{1}{4}$ acre of new impervious surface, or $\frac{1}{4}$ acre of new motor vehicle surface
- Definitions of new motor vehicle surface and new impervious surface will include FAQ 10.2 (newly collected impervious surface and changes to existing drainage systems count as “new”)

Clarification to Applicability

- Require quantity, quality, and groundwater recharge to be met in each drainage area on-site (unless they converge before leaving the property)
- Move mounding analysis requirement from recharge standard to apply to all infiltration BMPs

CSO Related Changes

- Clarify that water quality treatment is required for discharges into combined sewer systems (refer to existing N.J.A.C. 7:8-5.5(a))
- Clarify that water quantity control is required in tidal areas except discharges directly into lower reach of major tidal waterbodies (existing N.J.A.C. 7:8-5.4(a)3iv to be modified – moved to 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)