NEW RULES

OVERVIEW and QUESTIONS

Topics

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

Amendments to Stormwater Management Rules

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

SUBCHAPTER 5. DESIGN AND PERFORMANCE STANDARDS FOR STORMWATER MANAGEMENT MEASURES
7:8-5.1 Scope
7:8-5.2 Stormwater management measures for major development
7:8-5.3 Green infrastructure
7:8-5.4 Groundwater recharge standards
7:8-5.5 Stormwater runoff quality standards
7:8-5.6 Stormwater runoff quantity standards
7:8-5.7 Calculation of stormwater runoff and groundwater recharge
7:8-5.8 Maintenance requirements
7:8-5.9 Sources for technical guidance

Green Infrastructure Definition
N.J.A.C. 7:8-1.2

GI means a stormwater management measure that manages stormwater close to its source by:
1. Treating stormwater runoff through infiltration into subsoil;
2. Treating stormwater runoff through filtration by vegetation or soil; or
3. Storing stormwater runoff for reuse.

Green Infrastructure Standard
N.J.A.C. 7:8-5.3

- GI BMPs must be used to satisfy recharge, quantity, and quality
- 3 Tables identifying the performance of each BMP in meeting the standards
  - Table 5-1: Recharge, Quality, and Quantity Control
  - Table 5-2: Quantity Control
  - Table 5-3: Recharge, Quality, and Quantity Control ONLY with Waiver or Variance
- Maximum Contributory Drainage Area Limitations specified
- Maintain existing ability to propose an alternative stormwater design. Alternative design must meet GI definition and must meet drainage area limitation if similar to BMP with limit.
<table>
<thead>
<tr>
<th>Best Management Practice</th>
<th>Quality</th>
<th>TSS removal rate (percent)</th>
<th>Quantity</th>
<th>Recharge</th>
<th>Minimum separation from seasonal high water table (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cisterns</td>
<td>0</td>
<td>Yes</td>
<td>No</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Dry Wells</td>
<td>0</td>
<td>No</td>
<td>Yes</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Grass Swales</td>
<td>0 or less</td>
<td>No</td>
<td>No</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Green Roofs</td>
<td>0</td>
<td>Yes</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Treatment Wetlands</td>
<td>50 or 60</td>
<td>No</td>
<td>No</td>
<td>Dependent upon the device</td>
<td></td>
</tr>
<tr>
<td>Permeable Paving Systems</td>
<td>80</td>
<td>Yes</td>
<td>Yes</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Small-scale Bioretention Systems</td>
<td>80 or 90</td>
<td>Yes</td>
<td>Yes</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Small-scale Infiltration Basins</td>
<td>80</td>
<td>Yes</td>
<td>Yes</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Small-scale Sand Filters</td>
<td>80</td>
<td>Yes</td>
<td>Yes</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Vegetative Filter Strips</td>
<td>40-60</td>
<td>No</td>
<td>No</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

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

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

<table>
<thead>
<tr>
<th>Best Management Practice</th>
<th>Quality</th>
<th>TSS removal rate (percent)</th>
<th>Quantity</th>
<th>Recharge</th>
<th>Minimum separation from seasonal high water table (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blue Roofs</td>
<td>0</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Extended Detention Basins</td>
<td>40-40</td>
<td>Yes</td>
<td>No</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Manufactured Treatment Device</td>
<td>50 or 60</td>
<td>No</td>
<td>No</td>
<td>Dependent upon the device</td>
<td></td>
</tr>
<tr>
<td>Sand Filters</td>
<td>80</td>
<td>Yes</td>
<td>No</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Subsurface Gravel Wetlands</td>
<td>90</td>
<td>No</td>
<td>No</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Wet Ponds</td>
<td>50-90</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>
Water Quality – Motor Vehicle Surface

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

Definitions to Clarify Applicability
N.J.A.C. 7:8-1.2

- Added definition of “regulated motor vehicle surface”
- Added definition of “regulated impervious surface”
- Changed definition of major development
  - 1 acre of disturbance; or
  - ¼ acre of regulated impervious surface; or
  - ¼ acre of regulated motor vehicle surface
- Definitions of regulated motor vehicle surface and regulated impervious surface will include FAQ 10.2 (newly collected impervious surface and changes to existing drainage systems count as “new”)

Clarification of Applicability

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

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

Other Rule Changes

- Clarify that water quality treatment is required for discharges into combined sewer systems
  - New N.J.A.C. 7:8-5.5(c)
- Clarify that water quantity control is required in tidal areas except discharges directly into lower reach of major tidal waterbodies
  - New N.J.A.C. 7:8-5.6(b)4
- Creates the option for a community basin to address flooding issues within CSS communities
  - Other standards must still be met on-site (including GI)
    - New N.J.A.C. 7:8-4.2(c)14

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

- Municipality may approve a variance or exemption if:
  - Municipal Stormwater Management Plan contains a mitigation plan:
    - that identifies what measures are necessary to offset the deficit created by granting the variance
    - ensures mitigation happens in the same drainage area and for the performance standard for which variance is granted
  - Municipality submits a written report to county review agency and DEP describing the variance or exemption and the required mitigation
Adopted Variance - N.J.A.C. 7:8-4.6

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

Adopted Variance – Mitigation
N.J.A.C. 7:8-4.6(a)3

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

Adopted Variance – Mitigation
N.J.A.C. 7:8-4.6(a)3

• If variance is from green infrastructure standards
  • Mitigation project must provide green infrastructure BMPs to manage an equivalent or greater area and amount of impervious surface than the area of major development granted the variance
  • Vegetative filter strips and grass swales excluded as mitigation measures
  • GI BMPs used for mitigation must be sized to manage the Water Quality Design Storm (at a minimum)
  • GI BMPs used for mitigation are subject to the specified drainage area limitations
Adopted Variance – Mitigation
N.J.A.C. 7:8-4.6(a)3

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

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


Other NJDEP Stormwater Related Actions

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

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

Questions?

New Jersey DEP Division of Water Quality
401 East State Street
PO Box 420, Mail Code 401-2B
Trenton, NJ 08625-420
Tel: 609-633-7021
www.njstormwater.org

Jim Murphy
james.murphy@dep.nj.gov

Questions?

End of Module 1

- Module 2 will begin 1:00 pm, Thursday, August 27, 2020
- Email any additional questions to presenters or to DWQ-BNPC-StormwaterManagement@dep.nj.gov