

ADVISORY BULLETIN NJDEP STORMWATER MANAGEMENT RULES PROPOSAL

On December 3, 2018, NJDEP proposed modifications to New Jersey's Stormwater Management Rules (N.J.A.C. 7:8). A public comment period ends on February 1, 2019. It is expected that modifications will be adopted within one year of the public notice of this proposal, December 3, 2019.

VNHA has been following this rulemaking action and participating in the development of the rule proposal through Stakeholder meetings. Generally, NJDEP proposes to amend N.J.A.C. 7:8 (SWM Rules) to provide clarifications and eliminate the need to interpret "the maximum extent practicable" on a case-by-case basis when applying nonstructural stormwater management strategies by prescribing standards for compliance with this requirement.

We have highlighted proposed modifications to the Stormwater Management Rules below that may be of interest to you in the management of your facility, current and upcoming projects.

- **Redefines "Major Development"** to now include only "regulated motor vehicle surfaces" and "regulated impervious surface" as being subject to the SWM Rules. The timeframe for determining whether or not a development is a "Major Development" is February 2, 2004, the operative date of the Stormwater Management Rules. Land disturbance and impervious surfaces will be considered as cumulative from February 2, 2004 in determining whether or not a project meets the "Major Development" threshold. **These modifications will expand the applicability of the Stormwater Management Rules.**
- The **definition of "impervious surface"** has been clarified with a primary focus of providing stormwater management for surfaces used by motorized vehicles, newly collected runoff from impervious surfaces, or runoff collected by a stormwater system where the capacity of the system has increased. **This new definition specified/clarifies which impervious surfaces are subject to the Stormwater Management Rules.**
- **Green Infrastructure** is a new definition for stormwater measures intended to manage stormwater runoff close to the source of the discharge point. Green Infrastructure can be viewed as the fourth stormwater requirement, in addition to stormwater runoff quality, stormwater runoff quantity and groundwater recharge. The Green Infrastructure approach to stormwater management uses specific design criteria for stormwater management compliance and allows for alternatives to stormwater management measures and waivers from requirements. It is intended to remove the interpretation associated with the existing standard of using non-structural strategies "to the extent practicable". **This new definition replaces "nonstructural stormwater management strategies"**
- Provides **ten (10) specific Green Infrastructure BMPs** (non-structural stormwater management strategies) that may be used to meet the ground water recharge, stormwater runoff quality, and stormwater runoff quantity standards. Examples are grass swales, green roofs, pervious paving, vegetative filter strips, and small scale sand filters. **This should provide predictability in NJDEP expectations for compliance with Green Infrastructure stormwater management measures.**
- Contains specific requirements for **recording a deed notice** with the County Clerk for stormwater management measure approved under the SWM Rules. A draft of the deed notice must be submitted to the NJDEP for approval prior to filing, and proof of filing the deed notice must be submitted to the NJDEP prior to the start of construction. **This is an additional administrative requirement that will add to the timeline and cost of permitting.**

Click here for NJDEP Notice of Rule Proposal (<https://www.nj.gov/dep/rules/notices/20181203a.html>).

Click here for a courtesy copy of the Rule Proposal (<https://www.nj.gov/dep/rules/proposals/20181203a.pdf>).

If you have any questions or need assistance interpreting how these changes impact your facility or project, please contact John Ryder, PE at jryder@vannoteharvey.com or Brian Perry, PE at bperry@vannoteharvey.com or call (609) 987-2323.