

**CHAPTER 8
STORMWATER MANAGEMENT**

Authority

N.J.S.A. 12:5-3, 13:1D-1 et seq., 13:9A-1 et seq., 13:19-1 et seq., 40:55D-93 to 99, 58:4-1 et seq., 58:10A-1 et seq., 58:11A-1 et seq. and 58:16A-50 et seq.

Source and Effective Date

R.2004 d.48 and d.61, effective February 2, 2004.
See: 35 N.J.R. 119(a), 35 N.J.R. 1328(a), 35 N.J.R. 4220(a), 36 N.J.R. 670(a), 36 N.J.R. 781(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 8, Stormwater Management, was extended by gubernatorial directive from February 2, 2010 to February 2, 2011. See: 42 N.J.R. 468(a).

Chapter Historical Note

Chapter 8, Practices and Procedures of the Division of Water Resources, was adopted as R.1978 d.48, effective February 9, 1978. See: 10 N.J.R. 101(b). Chapter 8, Practices and Procedures of the Division of Water Resources, was repealed by R.1980 d.433, effective October 7, 1980. See: 12 N.J.R. 454(b), 12 N.J.R. 643(a).

Chapter 8, Storm Water Management, was adopted as R.1983 d.24, effective February 7, 1983. See: 14 N.J.R. 1022(a), 15 N.J.R. 142(b).

Pursuant to Executive Order 66(1978), Chapter 8, Storm Water Management, was readopted as R.1988 d.99, effective February 5, 1988. See: 19 N.J.R. 2227(a), 20 N.J.R. 526(b).

Pursuant to Executive Order No. 66(1978), Chapter 8, Storm Water Management, was readopted as R.1993 d.113, effective February 4, 1993. See: 24 N.J.R. 4469(a), 25 N.J.R. 990(a).

Pursuant to Executive Order No. 66(1978), Chapter 8, Storm Water Management, was readopted as R.1998 d.121, effective February 4, 1998. See: 29 N.J.R. 5127(a), 30 N.J.R. 826(a).

Chapter 8, Storm Water Management, was repealed by R.2004 d.48 and Chapter 8, Stormwater Management was adopted as new rules by R.2004 d.48 and R.2004 d.61, effective February 2, 2004. See: Source and Effective Date.

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 8, Stormwater Management, was extended by gubernatorial directive from February 2, 2009 to February 2, 2010. See: 41 N.J.R. 1025(a).

Petition for Rulemaking. See: 42 N.J.R. 733(c).

Case Notes

New Jersey Department of Environmental Protection (NJDEP) had a sufficient factual basis to grant permits to fill approximately 7.69 acres of wetlands in connection with the Xanadu Redevelopment project, its determination that mitigation of traffic and air quality problems must be addressed in stages due to the nature of the project was not an arbitrary and capricious resolution, and development of the surrounding wetlands did not violate N.J.A.C. 7:7E-3.27(c)1 because there was little, if any, possible water dependent use for the property and no prudent or feasible alternative to developing the project on a non-wetlands site. However, the NJDEP process of reviewing future submissions for compliance with conditions contained in the approval failed to provide an adequate opportunity for public comment; therefore, the NJDEP was required to develop a system that ensures the opportunity for such comment. In re Stream Encroachment Permit, 402 N.J. Super. 587, 955 A.2d 964, 2008 N.J. Super. LEXIS 201 (App.Div. 2008).

Trial court properly reversed a township land use board's denial of a developer's application for a major subdivision development and ordered conditional subdivision approval subject to the issuance of necessary storm water and sewer disposal treatment permits and approval by the New Jersey Department of Environmental Protection (DEP), as those issues were under the jurisdiction of the DEP and, if the requisite permit was ultimately granted by the DEP, the interests of the township and its citizens would be protected. *Dowel Assocs. v. Harmony Twp. Land Use Bd.*, 403 N.J. Super. 1, 956 A.2d 349, 2008 N.J. Super. LEXIS 194 (App.Div. 2008).

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SUBCHAPTER 1. GENERAL PROVISIONS

7:8-1.1 Scope and purpose

(a) This chapter establishes general requirements for stormwater management plans and stormwater control ordinances, as well as content requirements and procedures for the adoption and implementation of regional stormwater management plans and municipal stormwater management plans under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.; the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.; the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; and the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.; and implementing rules.

(b) This chapter establishes design and performance standards for stormwater management measures required by rules pursuant to the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.; the Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq.; the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.; the Waterfront Development Law, N.J.S.A. 12:5-3; the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq.; and the Dam Safety Act, N.J.S.A. 58:4-1 et seq.

(c) This chapter establishes safety standards for stormwater management basins pursuant to N.J.S.A. 40:55D-95.1.

Amended by R.1991 d.510, effective October 21, 1991.
 See: 22 N.J.R. 2870(a), 23 N.J.R. 3134(b).
 Added reference to N.J.S.A. 58:10A-1 et seq.

7:8-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“CAFRA Planning Map” means the geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.

“CAFRA Centers, Cores or Nodes” means those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

“Compaction” means the increase in soil bulk density.

“Core” means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

“County review agency” means an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

1. A county planning agency; or
2. A county water resources association created under N.J.S.A. 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

“Department” means the Department of Environmental Protection.

“Designated Center” means a State Development and Re-development Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

“Design engineer” means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

In the case of development on agricultural land, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Boards (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

“Drainage area” means a geographic area within which stormwater runoff, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.