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**Testimony on
Stormwater Management Rule NJAC 7:8 Proposal
New Jersey Department of Environmental Protection
Public Hearing**

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Good afternoon. My name is Kandyce Perry and I'd like to thank the Department of Environmental Protection for the opportunity to testify today.

I am with New Jersey Future, a statewide, nonpartisan nonprofit organization that, among many efforts, advocates for strong and resilient communities that have clean water and are not burdened by localized flooding. We believe in clear and predictable state-level rules that facilitate responsible and affordable development in those communities and promote sustainable solutions that deliver multiple benefits. The state's Stormwater Management rules (NJAC 7:8) provide opportunities to accomplish these goals.

We are pleased that the Department's proposed amendments to the Stormwater Management rules change the requirement for how property owners meet the rule's three minimum design and performance standards (stormwater runoff quality and quantity, and groundwater recharge) by now requiring green infrastructure (GI) to be used. This is an important first step toward protecting our state's precious waterways and communities. We look forward to seeing the three minimum standards themselves addressed in the future and appreciate the opportunity to take part in the department's ongoing stakeholder process.

To the matter at hand today: The department's current rule proposal incorporates several improvements. In addition to the requirement of the use of GI accompanied by an added definition, the proposal provides clear tables that identify which GI Best Management Practices contribute to the three minimum design and performance standards. This clarity is a step toward simplifying the process and contributes to predictability for property owners.

Yet, we believe the proposal can be made even more clear and effective by addressing the following:

- Creative design alternatives should be allowed to the BMPs in tables 5-1, 5-2, and 5-3, as science is ever-evolving. We are exploring ways to recommend design flexibility while maintaining predictability.
- As it currently reads, the “technically impracticable” clause that allows a property owner to request a variance when the rule’s standards cannot be met is not specific enough and therefore could serve as a loophole for property owners to bypass the use of GI. We are looking for ways to recommend a clear and objective definition for “technically impracticable” that mitigates this potential loophole.
- It is not clear why sidewalks are excluded from the requirement to treat runoff for water quality, and we would like to understand the department’s rationale. Sidewalk runoff is often polluted with salt and pet waste.
- The 2.5-acre maximum drainage area for small-scale BMPs is too large and a smaller maximum drainage area makes sense. Larger drainage areas can overwhelm the functionality of the BMP and lead to failure. Further, larger drainage areas encourage fewer and larger BMPs, while smaller drainage areas contribute to multiple, small BMPs that distribute the water around the site and mimic natural hydrology.
- In urban, mostly built-out places where redevelopment typically occurs, infiltration may not be possible or advisable. The rules should include guidance on slow-release in these areas.

We look forward to working with our partners in the development and environmental communities to refine our recommendations. Thank you again to the department for facilitating a process to amend the Stormwater Management rules to better serve the people and environment of our state.