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**Comments on
January 2026 Updates to New Jersey Stormwater
BMP Manual
Submitted to the New Jersey Department of
Environmental Protection (NJDEP)**

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New Jersey Future submits the following comments in response to the [January 2026 updates to the Stormwater Best Management Practices Manual](#) issued after adoption of the REAL and NJPACT amended Stormwater Management Rules, effective January 20, 2026.

We appreciate the Department's leadership in advancing these rule changes and strengthening New Jersey's stormwater BMP framework. We value that several revisions in the 2026 Manual address concerns raised in our [September 2025 comments regarding Notice of Substantial Change](#), which, in our view, improve consistency in how the rules are applied statewide

Our comments below focus on gaps in how long-term performance of green infrastructure installations is verified to ensure that systems designed under NJPACT continue to meet the amended standards over time.

1. Design Compliance and Long-Term Performance

The following chapters and appendices create a strong framework to ensure systems are compliant when they are approved and built.

- Chapters 4, 9, 12, and 13 provide detailed methods for calculating pollutant removal, testing soil and infiltration rates, modeling groundwater recharge, and analyzing peak flow and hydrograph duration under N.J.A.C. 7:8-5.6 using climate-adjusted rainfall data.
- Appendix A effectively outlines nonstructural strategies at the time of application.
- Chapter 8, Appendix C, and Appendix D clearly articulate maintenance plan requirements and the need to assign maintenance responsibility.

- Chapter 9 establishes thorough inspection and corrective action requirements for specific BMPs.

Recommendations: Our concern is that the Manual does not clearly distinguish between compliance at the time of approval and compliance over the life of the system.

- Design compliance means a project meets the rules based on modeling and calculations at the time it is approved.
- Operational compliance means the system continues to perform in the field as it was modeled to perform, particularly under NJPACT's climate-adjusted standards.

This distinction matters because compliance depends heavily on modeled assumptions about peak flow rates, hydrograph duration, infiltration rates, drain time, and stormwater storage volumes sized for future precipitation. Over time, sediment buildup, soil compaction, vegetation loss, underdrain problems, or blocked outlet structures can change how a system functions. If those changes affect drain time, discharge rates, or storage capacity, a system that met the standards when installed may no longer meet them.

Clear language explaining how long-term field performance affects regulatory compliance would strengthen implementation and improve clarity for municipalities, applicants, and reviewing agencies.

2. When Does Functional Decline Become Noncompliance?

We recognize that the Manual does include important maintenance requirements such as:

- Chapter 9.7 and 9.8 require inspection of the drain time and corrective action if the Water Quality Design Storm does not drain within 72 hours.
- Chapter 8 requires maintenance plans.
- Appendix D addresses assigning responsibility.

However, the Manual does not clearly explain when repeated or unresolved failures rise to the level of noncompliance with N.J.A.C. 7:8-5.4, 5.5, or 5.6.

For example:

- If a system repeatedly fails the 72-hour drain time standard, does that constitute regulatory noncompliance?
- Must that failure be reported to a reviewing authority?
- What enforcement action applies if corrective measures are not taken?

- How should municipalities confirm that climate-adjusted modeling assumptions remain valid over time?

Without clearer direction, we are concerned that compliance with NJPACT's climate-adjusted standards may hinge on voluntary maintenance rather than performance-based accountability.

Recommendations:

- Clearly define and outline how ongoing compliance is determined when systems repeatedly fail approved drain time standards.
- Specify whether sustained drain time failures may constitute regulatory noncompliance under N.J.A.C. 7:8.
- Clarify whether such failures must be reported and what enforcement actions apply if corrective measures are not implemented.
- Define how municipalities are expected to verify that climate-adjusted peak flow, storage, and infiltration assumptions remain valid over time.
- Establish clear expectations for as-built certification to confirm that systems are constructed according to approved design plans and modeled assumptions.
- Require a first-year functional inspection for infiltration-based systems to confirm proper establishment and verify that drain time and infiltration performance match approved calculations.

Strengthened oversight, paired with targeted technical assistance, is especially important in overburdened communities and in municipalities with combined sewer overflows. In these areas, green infrastructure underperformance can undermine compliance with Long Term Control Plans and create new operational burdens rather than addressing existing stormwater and CSO challenges, further straining limited local capacity.

3. Complementing Manual: Addressing Municipal Capacity, GI Training, and Monitoring

Through engagement with municipal partners, we have observed that many municipalities with installed green infrastructure do not yet have formal inspection protocols or structured maintenance programs capable of supporting long-term compliance.

Unfortunately, manuals are only as effective as the people trained to use them. While NJDEP's stormwater training resources provide helpful educational materials, PDFs and links to virtual training alone cannot address the workforce gaps that are essential to compliance. Without stronger on-the-ground capacity, green infrastructure will never reach its full potential and risks being viewed as a regulatory burden rather than the highly effective, multi-benefit tool it is for improving water quality, managing stormwater, and building climate resilience.

Recommendations:

1. Implementing and expanding hands-on GI installation and maintenance training courses to address practical maintenance challenges, such as:
 - Plant identification and distinguishing invasive species from intentional plantings
 - Identifying early signs of erosion, clogging, pests, or disease
 - Proper mulch application and irrigation techniques
 - Underdrain and outlet inspection practices
2. Workforce development initiatives that train municipal staff, NGOs, and private contractors in green infrastructure maintenance would significantly strengthen statewide implementation capacity.
3. We also encourage NJDEP to consider targeted post-construction performance monitoring for selected BMP types. Monitoring can:
 - Validate modeled pollutant removal efficiencies
 - Confirm climate-adjusted hydraulic assumptions
 - Inform future Manual updates
 - Support adaptive refinement of standards as precipitation projections evolve

Monitoring data would further strengthen confidence that NJPACT's updated stormwater standards are delivering real-world performance results. It would also align with the Five-Year Reexamination requirement included in the 2025 Notice of Substantial Change for the REAL rule, which requires that sea-level rise and precipitation data incorporated into the rules reflect the most current climate science.

Conclusion

The January 2026 BMP Manual represents important progress in implementing NJPACT's amended Stormwater Management Rules and strengthening climate-resilient stormwater standards statewide.

Clarifying the difference between design compliance and ongoing operational compliance would help ensure that the strengthened standards remain durable, enforceable, and effective over time. By explicitly linking modeled assumptions to continued field performance, the Department can reinforce the integrity of the amended rules and ensure that stormwater systems continue to deliver the water quality, groundwater recharge, and climate resilience benefits intended by the January 20, 2026 Stormwater Management Rules.