



January 31, 2019

Gary J. Brower, Esq.
ATTN: DEP Docket No. 03-18-10
Office of Legal Affairs
Mail Code 401-04L; PO Box 402
401 East State Street, 7th Floor
Trenton, New Jersey 08625-0402

RE: Changes to the NJDEP Stormwater Regulations

Dear Mr. Brower:

The Stormwater Equipment Manufacturers Association (SWEMA) strongly supports stormwater management strategies and regulations that incorporate advances in stormwater science, encourage innovation, and successfully protect and restore receiving waters at an affordable cost for our communities. The changes to New Jersey stormwater regulation proposed by the New Jersey Department of Environmental Protection (NJDEP) will not promote these objectives. SWEMA feels the following five proposed changes will ultimately lead to degradation of stormwater quality in the State of New Jersey:

- **Prioritizing green infrastructure over manufactured treatment systems.** Prioritizing the use of green infrastructure to effectively disallow manufactured solutions will limit a designer's ability to choose the best, most cost-effective option for treating stormwater on a given site. This will have the most impact on stormwater quality from highly urbanized sites that do not have space for adequate land-based solutions. Prioritizing green infrastructure may compromise water quality or force development from urban areas to outlying areas where more space is available for green infrastructure.

Currently, there is not enough information on the long-term performance or maintenance requirements of green infrastructure to use it as a singular solution. Performance is dependent on design, materials, and installation – which all vary greatly. Regulations that are so dependent on green infrastructure for water quality should include strict guidelines to limit such variables and require testing and verification to prove that each approach meets performance metrics. Maintenance of green infrastructure must also be better understood. Large land-based systems do not require maintenance as often as smaller manufactured systems, but when a large land-based system eventually fails, the logistics and cost of maintenance are overwhelming.

- **Not treating runoff from all impervious surfaces.** Limiting the definition of pollution generating surfaces to only those surfaces that accommodate motor vehicle traffic will leave runoff from rooftops, walkways, and other similar impervious surfaces untreated. These surfaces accumulate airborne pollutants and contaminants from materials like bituminous roofing. These pollutants will degrade receiving waters.
- **Lack of clarity in the rules and definitions.** Interpretation of many of the rules seems to be left to the subjective judgement of the reviewer – whose perspective will vary greatly based on experience, expertise, and opinion. Expectations that are clearly prescribed and articulated in the regulations will result in consistent application of the rules and promote water quality.



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- **Effectively dismantling the NJCAT/NJDEP process.** A greatly reduced market for manufactured treatment systems may render New Jersey Corporation for Advanced Technology (NJCAT) testing and verification irrelevant. The State of New Jersey has spent a great deal of time and money to develop one of the most highly respected testing, verification, and certification programs in the United States, but the process is expensive, and manufacturers will not be able to afford to participate if there is no return on investment. A diminished NJCAT/NJDEP program will affect water quality in any jurisdiction that depends on the program to ensure stormwater quality.
- **Exclusion of Stakeholders.** Stakeholders from the stormwater equipment manufacturing community were not formally notified of or adequately included in the development of the proposed regulation. Many stormwater equipment manufacturers provide low impact development solutions as well as engineered structural Best Management Practices (BMP) and have decades of experience in the appropriate application of both types of systems. Better stakeholder engagement would yield a more effective regulation.

In conclusion, SWEMA feels that all stormwater management regulation should embrace performance-based standards, require consistent evaluation and verification of the performance of all types of BMPs, and provide a clear path for acceptance of new, innovative solutions. Performance based standards ensure water quality is protected without hindering innovation or forcing development out of urban areas to undeveloped areas less prone to site constraints. Consistently evaluating and rating all types of stormwater BMPs ensures BMP comparability. And finally, ensuring that there is a clear path to acceptance for new stormwater innovations is another way to encourage investment in stormwater research, which in turn leads to new advancements, more cost-effective solutions, and furthers the community need to restore and maintain water quality in our receiving waters.

Thank you for the opportunity to comment on these important rule changes. We look forward to further conversations on the best approach for green infrastructure implementation in New Jersey.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jay Holtz".

Jay Holtz, PE
SWEMA Government and Regulatory Committee Chair

Derek Berg
SWEMA President