

DEP Proposes to Add 300 Foot Buffers to 749 Miles of Waterways

March 22, 2019

On March 4, 2019, New Jersey DEP proposed amendments to its Surface Water Quality Standards which, if adopted, will upgrade 749 miles of rivers and streams throughout the State to Category One (C-1) status. The proposed C-1 designations apply to waterbodies in all regions of the State, from North to South. If adopted, they will add approximately 54,380 acres (85 square miles) of newly protected 300' stream buffers on either side of a river or stream, within which only very limited development can occur. These are the first additions to the C-1 Waterways List since 2008.

The proposed upgrades are based on a determination by DEP that the waterbodies in question offer suitable habitat for specified Endangered and Threatened Species, are of exceptional ecological significance, constitute exceptional aquatic communities and/or support trout populations.

C-1 designation has two significant consequences: First, strict anti-degradation effluent limits are placed on point source discharges. Second, 300 foot stream buffers ("Flood Hazard Riparian Zones" in DEP parlance) are imposed on either side of the waterway as measured from the top of bank. There are no provisions for adjustments in areas where a watercourse runs through areas in which development is otherwise encouraged, such as urban centers, areas in need of redevelopment or proposed transit villages. Some limited relief is available under the Riparian Zone provisions of the Flood Hazard Regulations, but that only occurs when a Flood Hazard Permit Application is filed for a particular project; the C-1 designation itself does not change.

Links to the list of impacted rivers and streams, to a map showing their location and the rule proposal itself are available on DEP's web-site: www.nj.gov/dep

The proposal is open for a 60 day public comment period. A public hearing will be held on April 8, 2019 in Hamilton Township, Mercer County.

You may want to consult with a qualified engineering or consulting firm to determine whether property you own or have an interest in is impacted.

Attorneys

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