

## DEP Proposed Upgrade of NJ Water Bodies to Category One Will Trigger Significant Restrictions on Neighboring Land Use

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*Greenbaum, Rowe, Smith & Davis LLP Client Alert*

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On March 4, 2019, the New Jersey Department of Environmental Protection (DEP) published a proposal to amend the Surface Water Quality Standards to elevate 749 river miles of New Jersey water bodies to Category One. Category One waters are protected from any measurable change to the existing water quality because of their exceptional ecological significance, or their significance as an exceptional fisheries resource.

DEP has scheduled a hearing on the proposal for **April 8, 2019**. Comments on the proposed amendment are due to DEP by **May 3, 2019**.

An upgrade to Category One status will result in significant increases in restrictions for properties located in the vicinity of these rivers. Most notably, Category One rivers have a 300-foot buffer, which results in large areas of virtually undevelopable land. The Category One classification also extends to the river's tributaries and tributaries of tributaries.

Any person owning property alongside one of these rivers or their tributaries should carefully review the proposed amendment to assess the impact and consider submitting comments to DEP or challenging the designation.

The water bodies affected by the proposed amendment are as follows:

### **Atlantic Coastal Basin**

#### *Tuckerton Creek*

Segment from the Pinelands Area Boundary to Pohatcong Lake including all tributaries.

#### *Westecunk Creek*

Segment from the Pineland Area boundary to Uriah Branch (a tributary to Westecunk Creek), including all tributaries.

### **Upper Delaware River Basin**

#### *Beaver Brook*

Segment from Honey Run to the Pequest River, and

The tributary East of Mununka Chunk.

*Blair Creek*

Entire length of Blair Creek, including all tributaries.

*Brookaloo Swamp*

Entire length of Brookaloo Swamp between Beaver Brook and Honey run

*Furnace (Oxford) Brook*

Segment from the railroad bridge to the Pequest River, including all tributaries.

*Jacksonburg Creek*

Entire length, including tributaries.

*Jacobs Creek*

Segment from its source to Woolsey Brook, including all tributaries.

*Lubbers Run*

Entire length, including all tributaries.

*Mountain Lake Brook*

Portion running from the Lake Bog Preserve Boundary to the Pequest River.

*Paulins Kill*

Segment from the Balesville dam to Parson Road Segment from Paulins Kill Lake dam to Jacksonburg Creek, including all tributaries except Blair Creek and Pond Brook,  
Segment from Warbase Junction Road to the confluence with East Branch,  
Segment Paulins Kill mainstem from the confluence of East and West Branches to Route 15 bridge, and  
Segment of the Paulins Kill mainstem from Paulins Kill Lake dam to the Delaware River including all tributaries.

*Pequest River*

Segment from Kymer Brook to Trout Brook, including all tributaries,  
Segment from the downstream most Pequest Wildlife Management Area boundary to the Delaware River,  
Segment from the Long Bridge Road northern crossing to an unnamed tributary that flows into the river on its eastern side just below Route 80 in Warren County, including all unnamed tributaries, and  
Segment from Route 46 crossing to the Lehigh and Hudson River railway bridge in Warren County.

*Pond Brook*

Entire length of Pond Brook, from Swartswood Lake to the Paulins Kill.

*Swartwood Creek*

Entire length, including all tributaries.

*Weldon Brook*

From source to, but not including Lake Sawnee, and All tributaries for this segment.

**Lower Delaware River Basin**

*Blackwater Branch*

Segment from Pine Branch to Maurice river, including all tributaries.

*Burnt Mill Branch*

Segment from Burnt Mill Pond to confluence with the Maurice River, including all tributaries to this segment.

*Cohansey River*

Segment from Finely Road to Loper Run in Cumberland County, including all unnamed tributaries.

*Cooper River*

Segment from the Route 30 crossing to the confluence with the Delaware River in Camden County.

*Crystal Creek*

Segment from Route 130 to the Delaware River in Burlington County.

*Fishing Creek*

Segment from the source to Fulling Mill Stream, including all tributaries.

*Green Branch*

Entire length, including all tributaries.

*Indian Run*

Segment from Olivet Road to the confluence with Muddy Run, including all tributaries.

*Little Robin Branch*

Entire length.

*Manantico Creek*

Segment from Mays Landing Road to the confluence with Berryman Branch, including all tributaries.

*Maurice River*

Segment from West Sherman Avenue to Union Lake Dam in Cumberland County, and Segment from the confluence with Green Branch to Sherman Avenue (downstream of Union Lake Wildlife Management Area), including all unnamed tributaries.

*Muddy Run*

Segment from Olivet Road to Parvin State Park, including Centerton Pond and all unnamed tributaries, and  
Segment from Landis Avenue to Maurice Road outside the boundaries of Union Lake

*North Run*

Segment of the tributary to North Run that originates North East of Wrightstown Borough in Burlington County, from source to the Pinelands Area Boundary.

*Oldmans Creek*

Segment from source to the eastern boundary of the Harrisonville Lake Wildlife Management Area.

*Old Robins Branch*

Entire segment outside the Pinelands Area.

*Raccoon Creek*

Entire length of the tributary that originates at South Harrison in Gloucester County, including Lake Basgalore and all tributaries.

*Salem River*

Portion that runs from Mill Street to Chestnut Run, and  
Tributary to the most downstream segment of the Salem River, originating at Pilesgrove in Salem County, including all tributaries.

*Still Run*

Segment from source to Silver Lake, including all tributaries.

*Woodbury Creek*

Segment from Hessian Run to the Delaware River including all tributaries in Gloucester County.

**Passaic, Hackensack, and New York Harbor Complex Basin**

*Ramapo River*

Portion from Patriots Way bridge to Little Pond Brook in Bergen County, including all unnamed tributaries.

*Whippany River*

Segment from Whitehead Road bridge to Gillespie Hill tributary, including all tributaries to that segment.

**Upper Raritan River Basin**

*Lamington River*

Segment from Camp Brady Bridge to the confluence with Cold Brook in Hunterdon County, including all

tributaries, and

All unnamed tributaries along the Lamington River between the Route 206 bridge and the confluence of Rinehart Brook.

*Neshanic River*

Segment from Back Brook to South Branch Raritan River, including all tributaries, and Tributary known as Third Neshanic River, including all tributaries except the tributary originating east of Sergeantsville.

*Pleasant Run*

Segment from source in Readington to Old York Road, including all tributaries.

*Prescott Brook*

Entire length, including all tributaries.

*North Branch Raritan River*

Segment from Route 512 bridge to Mine Brook, including all tributaries.

*South Branch Raritan River* Segment from the County Route 512 Bridge to Spruce Run, including all tributaries, and

Segment from County Route 613 bridge on Main Street between Raritan and Readington Townships, to the confluence of the Neshanic River, including all tributaries.

*Rock Brook*

Segment from source to Camp Meeting Road in Montgomery Township, including all tributaries.

*Turtleback Brook*

Entire length.

**Wallkill River Basin**

*Beaver Run*

All tributaries, including tributaries that originate in Wantage Township.

*Clove Brook*

Segment from the source of the brook to its confluence with an unnamed tributary originating from south of Mt. Salem, including all tributaries.

*West Branch Papakating Creek*

Segment from Libertyville tributary to its confluence with Papakating Creek, as well as the two tributaries immediately west of Plumbsock.

## Published Articles (Cont.)

### *Rutgers Creek*

All the tributaries.

### *Walkill River*

Portion between Glenwood road to the confluence with Wantage Brook in Sussex County, including all unnamed tributaries, and Entire length of standalone tributary that is located South of Pimple Hills in Sussex County, and

Segment from Beaver Run to the Papakating Creek.

If you have any questions regarding the issues discussed in this Alert, please contact the authors, **Daniel Flynn** and **Gary S. Forshner**.