

New Jersey

Department of Environmental Protection

Buffers on Category One Waters

Category One Related Rules

Stormwater Management rules (N.J.A.C. 7:8)

Surface Water Quality Standards (SWQS) (N.J.A.C. 7:9B)

Flood Hazard Area Control Act rules (FHACA) (N.J.A.C. 7:13)

www.nj.gov/dep/rules

What is a Category One Buffer?

Buffers are vegetated areas adjacent to waterways that provide protection to New Jersey's water quality. These special areas are established and protected through various rules and may vary in width. A 300 foot or Category One (**C1**) buffer is required by the Stormwater Management (NJAC 7:8) and the Flood Hazard Area Control Act rules (**FHACA**) at NJAC 7:13, for certain activities proposed adjacent to waters designated in the Surface Water Quality Standards (NJAC 7:9B) as **C1** or their upstream tributaries in the same sub-watershed (**HUC 14**).

How is the Category One Buffer applied?

Stormwater Management rules: All permits issued by the Department's Division of Land Use Regulation (**DLUR**) (i.e., Flood Hazard, Freshwater Wetlands, and Coastal permits) must comply with the Stormwater Management rules where applicable. These rules are available at: www.state.nj.us/dep/rules.

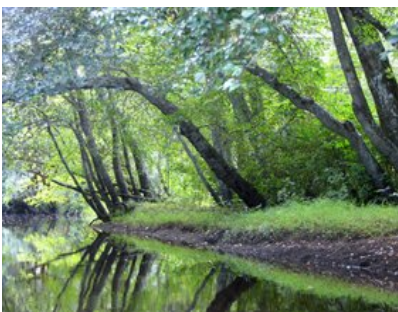
A 300 foot buffer or **Special Water Resource Protection Area (SWRPA)** is required for all "**Major Development**" (1/4 acre increase in impervious surface or 1 acre of disturbance), that is adjacent to a waterway that is designated as **C1** or to an upstream tributary within the same **HUC 14 AND** that is mapped on either the County Soil Survey or the USGS Quad map.

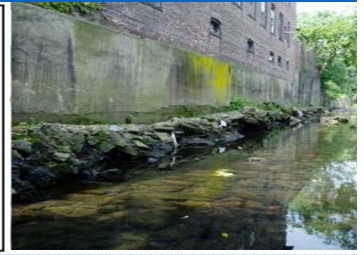
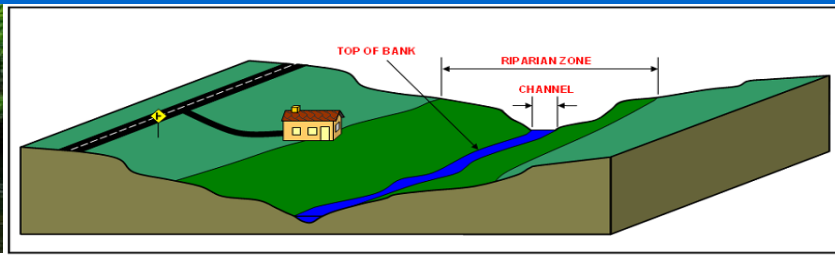
All disturbance in the **SWRPA** must be approved by the Department in a **DLUR** permit or by the Division of Watershed Management, when no **DLUR** permit is required. Development in the **SWRPA** is permitted in limited circumstances, for example, for a project that involves: a linear development, a unique hardship, or disturbance of the outer 150 feet of the **SWRPA** that is already disturbed **only if** the overall functional value of the **SWRPA** is maintained or improved.

Flood Hazard Area Control Act rules: A 300 foot buffer or **Riparian Zone (RZ)** is required for all "regulated activities" proposed in within the 300 foot **RZ** that is adjacent to "regulated waters" that are designated **C1** and upstream tributaries within the same **HUC 14** whether mapped or not.

Limited disturbance may be permitted in a **RZ** under an individual permit or a hardship exception.

In most cases the SWRPA and RZ will overlap. Compliance with both standards is required.





How is redevelopment impacted?

The standards protecting vegetation in the **RZ** and **SWRPA** do not apply where no vegetation exists (i.e. paved or developed areas), however, all other applicable standards of the rules apply. This does not apply to “disturbed” areas where vegetation exists or was illegally removed.

How do I know what my buffer is?

For an official determination under the **FHACA**, apply for a Flood Hazard Area Verification to determine the width of the **RZ** (50—300 ft); or for projects involving a Freshwater Wetlands application, a Letter of Interpretation (LOI), which indicates the resource value classification of wetlands on a site, will also note whether a **SWRPA** is present.

C1 waters are listed in the SWQS rules. In addition, the Surface Water Quality Standards are available through the Department’s interactive mapping tools and available as a digital data download as an ArcView shape file format at <http://www.nj.gov/dep/gis> and can be used to informally determine whether a **C1** waterbody potentially impacts a project.

When are projects grandfathered?

Pending and previously approved projects: If the project has a valid DLUR permit or an application deemed complete by the Department prior to the effective date of a C1 designation, it is not subject to the requirements made applicable by the new designation.

Projects needing more than one DLUR permit: If the project has a valid DLUR permit (i.e. Flood Hazard) prior to the effective date of a C1 designation and requires another DLUR permit (i.e. Freshwater Wetlands), the review of the other permit will be exempt from requirements made applicable by the C1 designation provided that the previously approved valid permit included a stormwater management review consistent with the Stormwater Management rules effective February 2, 2004 and any subsequent amendments.

Projects that did not need a FHACA permit prior to a new C1 designation, but are now located within the C1 buffer:

- Projects with municipal approval, issued prior to the effective date of the C1 designation, that enables commencement of construction will not require a FHACA permit.
- Projects that did not need a municipal approval and began construction before the effective date of the C1 designation as evidenced by: the foundation for at least one building or structure; all of the subsurface improvements for a roadway; or the installation of all of the bedding materials for a utility line, will not require a FHACA permit.

In all cases, if the project changes such that a new permit application is required, the designation in effect at the time of the new application will apply.

For More Information

Stormwater management and municipal stormwater permitting—www.njstormwater.org

Division of Land Use Regulation—www.nj.gov/dep/landuse

Water Monitoring and Standards—www.nj.gov/dep/wms