

# ASSEMBLY, No. 3694

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JUNE 21, 2001

**Sponsored by:**

**Assemblyman LEONARD LANCE**  
**District 23 (Warren, Hunterdon and Mercer)**  
**Assemblyman STEVE CORODEMUS**  
**District 11 (Monmouth)**

**Co-Sponsored by:**

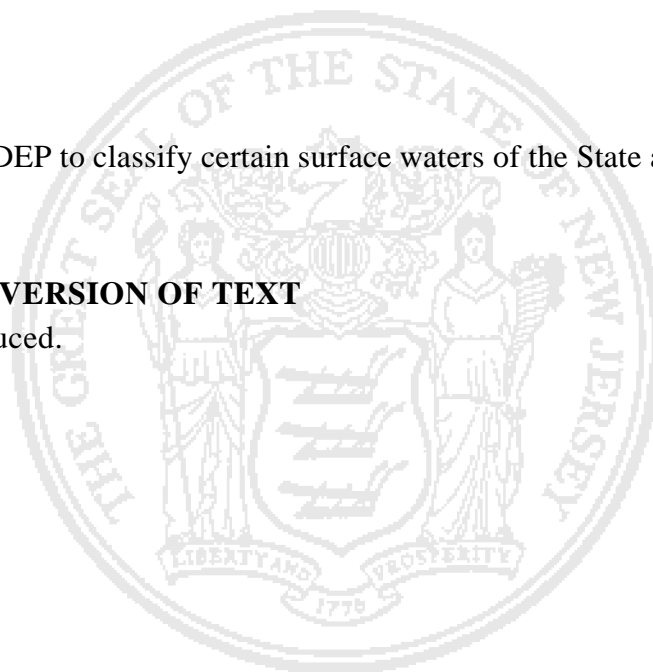
**Assemblymen Kean, Bateman, Biondi, B.Smith, Assemblywoman Vandervalk, Assemblyman Felice, Assemblywoman Weinberg, Assemblymen Bagger, Russo, Wolfe, Rooney, Suliga, Arnone, Azzolina, Barnes, Assemblywoman Buono, Assemblymen Conaway, Cottrell, Assemblywomen Crecco, Friscia, Assemblymen Geist, Gusciora, Holzapfel, Jones, Kelly, Malone, Payne, Steele, R.Smith, T.Smith, Stanley, Tucker, Assemblywoman Watson Coleman, Assemblymen Wisniewski, Zecker, Blee, Caraballo, Assemblywoman Greenstein, Assemblymen Greenwald, Munoz, Guear and Sires**

**SYNOPSIS**

Requires DEP to classify certain surface waters of the State as category one waters.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 10/4/2001)

1 AN ACT concerning surface water quality, and supplementing Title 58  
2 of the Revised Statutes.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. a. Within one year of the effective date of this act, the  
8 Department of Environmental Protection shall delineate and designate  
9 the following surface waters of the State as category one waters:

10 (1) Reservoirs serving as drinking water supplies;

11 (2) Reservoir feeder streams;

12 (3) Waters upstream of water supply intakes that drain endangered  
13 or threatened species habitat or areas of exceptional scenic value; and

14 (4) Any other waters determined by the commissioner to be of  
15 exceptional ecological significance, exceptional recreational  
16 significance, exceptional water supply significance, or exceptional  
17 fisheries resource.

18 b. The surface waters delineated and designated as category one  
19 waters pursuant to subsection a. of this section shall be added to the  
20 list of surface waters designated as category one waters by the  
21 department pursuant to regulations adopted pursuant to the provisions  
22 of P.L.1977, c.74 (C.58:10A-1 et seq.), P.L.1977, c.75 (C.58:11A-1  
23 et seq.), and P.L.1970, c.33 (C.13:1D-1 et seq.).

24 c. If the department fails to delineate and designate the surface  
25 waters enumerated in subsection a. of this section as category one  
26 waters within one year of the effective date of this act, the surface  
27 waters enumerated therein section shall be deemed to be designated as  
28 category one waters.

29 d. As used in this section, "category one waters" means waters of  
30 the State designated for protection from measurable changes in water  
31 quality characteristics because of their clarity, color, scenic setting,  
32 other characteristics of aesthetic value, exceptional ecological  
33 significance, exceptional recreational significance, exceptional water  
34 supply significance, or exceptional fisheries resources; and "ecological  
35 significance" means those waters, and adjacent land areas, that provide  
36 habitat or potential habitat for species identified pursuant to "The  
37 Endangered and Nongame Species Conservation Act," P.L.1973,  
38 c.309 (C.23:2A-1 et seq.) or which appear on the federal endangered  
39 species list.

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41 2. a. Surface waters designated as category one waters pursuant  
42 to subsection a. of section 1 of this act and by the department pursuant  
43 to regulations adopted pursuant to the "Water Pollution Control Act,"  
44 P.L.1977, c.74 (C.58:10A-1 et seq.) shall be subject to the following  
45 antidegradation policies:

46 (1) The waters shall be protected from any measurable changes,

1 including calculable or predicted changes, to the existing water quality.  
2 Water quality characteristics that are generally worse than the water  
3 quality criteria, except as due to natural conditions, shall be improved  
4 to maintain or provide for the designated uses whenever this can be  
5 accomplished without adverse impacts on organisms, communities or  
6 ecosystems of concern.

7 (2) No changes shall be allowed in waters which constitute an  
8 outstanding national or State resource or in waters that may affect  
9 these outstanding resource waters.

10 b. As used in this section, "calculable or predicted changes" means  
11 changes to water quality characteristics as demonstrated by an  
12 acceptable mathematical, predictive method.

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14 3. Within one year of the effective date of this act, the department  
15 shall adopt amendments to the Statewide water quality management  
16 plan and the appropriate areawide water quality management plans  
17 adopted pursuant to the "Water Quality Planning Act," P.L.1977, c.75  
18 (C.58:11A-1 et seq.) to incorporate the category one waters  
19 designation required pursuant to subsection a. of section 1 of this act.

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21 4. a. Within one year of the effective date of this act, the  
22 department shall delineate all category one watershed management  
23 areas in the State.

24 b. Commencing one year after the effective date of this act, the  
25 department may not issue a permit for any activity in a category one  
26 watershed management area which, alone or in combination with any  
27 other activities, might cause changes to existing water quality, other  
28 than toward natural water quality.

29 c. Commencing one year after the effective date of this act, the  
30 department may not issue a NJPDES permit pursuant to P.L.1977,  
31 c.74 (C.58:10A-1 et seq.) for an expanded discharge into a category  
32 one water unless the applicant therefor can demonstrate that the  
33 proposed expanded discharge would not cause a measurable change,  
34 including a calculable or predicted change, in existing water quality.

35 d. Commencing one year after the effective date of this act, the  
36 department may not issue any permit pursuant to P.L.1977, c.74 for  
37 the building, installation, modification, or operation of any facility for  
38 the collection, treatment, or discharge of any pollutant which would  
39 result in an expanded discharge and be located in a category one  
40 watershed management area unless the applicant therefor can  
41 demonstrate that the expanded discharge would not cause a  
42 measurable change, including a calculable or predicted change, in  
43 existing water quality.

44 e. Commencing one year after the effective date of this act, the  
45 department may not approve any amendment to an areawide plan  
46 pursuant to P.L.1977, c.75 (C.58: 11A-1 et seq.) proposing any new

1 or expanded wastewater treatment system or infrastructure that would  
2 be located in a category one watershed management area unless the  
3 applicant therefor can demonstrate that the proposed new or expanded  
4 wastewater treatment system or expanded infrastructure would not  
5 cause a measurable change, including a calculable or predicted change,  
6 in existing water quality.

7 f. Commencing one year after the effective date of this act, any  
8 person responsible for a nonpoint source discharge in a category one  
9 watershed shall apply for a NJPDES permit issued pursuant to  
10 P.L.1977, c.74. The department may not issue a permit pursuant to  
11 P.L.1977, c.74 for a nonpoint discharge in a category one watershed  
12 management area unless the applicant for the permit can demonstrate  
13 that the nonpoint discharge would not cause a measurable change,  
14 including a calculable or predicted change, in existing water quality.

15 g. As used in this section, "category one waters" means waters of  
16 the State designated for protection from measurable changes in water  
17 quality characteristics because of their clarity, color, scenic setting,  
18 other characteristics of aesthetic value, exceptional ecological  
19 significance, exceptional recreational significance, exceptional water  
20 supply significance, or exceptional fisheries resources; "category one  
21 watershed management" means a watershed management area  
22 delineated by the department pursuant to P.L.1997, c.261 (C.58:29-1  
23 et seq.) which drains into category one waters; "calculable or predicted  
24 changes" means changes to water quality characteristics as  
25 demonstrated by an acceptable mathematical, predictive method;  
26 "expanded discharge" means an increase in a wastewater flow or  
27 pollutant load that exceeds a facility's average daily wastewater flow  
28 or pollutant loading based on the 12-month period immediately  
29 preceding the year in which this act is enacted; "expanded wastewater  
30 treatment system" means any change at a wastewater treatment system  
31 which results in an expanded discharge; and "expanded infrastructure"  
32 means the extension of a wastewater treatment system beyond the  
33 boundaries of the system in existence on the effective date of this act.

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35 5. a. The provisions of this act shall supersede any provisions of  
36 P.L.1983, c.31 (C.4:1C-1 et seq.), P.L.1993, c.32 (C.40:55D-40.1 et  
37 seq.) or P.L.1975, c.291 (C.40:55D-1 et seq.), or any rules and  
38 regulations adopted pursuant thereto, with which the provisions of this  
39 act are in conflict.

40 b. The provisions of this act are intended to protect and secure the  
41 surface waters of the State and shall be liberally construed to effect the  
42 purposes thereof.

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44 6. This act shall take effect immediately.

STATEMENT

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This bill would require the Department of Environmental Protection (DEP) to delineate and designate within one year certain surface waters critical to the state's drinking water supply, including reservoirs, reservoir feeder streams, and certain environmentally critical waters upstream of water supply intakes, as category one waters. Category one waters designated pursuant to this bill, as well as by DEP regulations, would be afforded the highest level of environmental protection and antidegradation regulation. This bill also provides that if the DEP fails to delineate and designate these waters as category one waters within one year, these waters would be deemed to be so designated.

This bill would further require the DEP, within one year, to adopt amendments to the Statewide water quality management plan and appropriate area wide water quality management plans to include the category one waters required to be designated by this bill.

This bill would also require the DEP to determine those watershed management areas in the state that drain into category one waters and designate those watershed management areas as category one watershed management areas. This bill would also impose on the category one watershed management areas designated pursuant to this bill stringent environmental reviews of wastewater treatment facility activity, non-point source discharges, and wastewater treatment facility construction. Finally, this bill provides that the provisions of this bill would supersede any conflicting provisions of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) the "Right To Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and the site improvement act, P.L.1993, c.32 (C.40:55D-40.1 et seq.).