



Empire State Forest Products Association

The people behind New York's healthy forests and quality wood products
www.esfpa.org

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Memorandum of Opposition

A 6652/S 4162

Honorable Steven Englebright
Member of Assembly
621 LOB
Albany, NY 12248

Honorable Peter Harckham
Senator
812 LOB
Albany NY, 12247

March 25, 2021

Dear Assembly member Englebright and Senator Harckham:

The Empire State Forest Products Association has concerns with A. **6652/S.4162** relating to the classification of freshwater streams. If enacted, this bill would add all class C waterways to the list of additional protections for streams under the Protection of Waters Regulatory Program within the New York State Department of Environmental Conservation (DEC). This statutory change could impose permit windows which could be devastating to forest management in New York.

The Empire State Forest Products Association (ESFPA) represents more than 300 member businesses, industries and landowners engaged in forest resource production and stewardship of New York's 19 million acres of forest. In total, \$22.9 billion in annual industry production and nearly 100,000 jobs are attributable to operations of various industries within the forest related sectors. There are more than 200,000 private forest landowners who also depend on sound forest and timber management and production to help them keep their forests as forests.

Currently class C streams are regulated by DEC and have a best usage classification for fishing. Class C waters are suitable for fishing and primary and secondary contact recreation, although certain naturally occurring factors may limit the use for these purposes. Class C waters can, by regulation, have an additional T classification (trout spawning) added to them which does add them to the Protection of Waters Regulatory Program.

Extending the regulatory requirements to all class C streams by statute will add every class C stream to the Protection of Waters Regulatory Program and hinder forest land owner's ability to manage their forests and undertake responsible timber harvests. This would add over 40 thousand of miles of marginal streams to this regulatory program and impose windows of limitations on forest management and timber harvesting. By some calculations these windows could span 9 months from October through June, of which winter is preferred harvest season due to frozen conditions.

New York State already has regulations on Class C streams and we have one of the most ambitious water quality protection programs in the country. Our forests make a significant contribution to the protection of streams and other waterbodies throughout the State. New York State also has a voluntary Best Management Practices for Water Quality guide for forestry which requires foresters and loggers to implement a comprehensive suite of management measures for the protection of streams and water bodies. These streams also already are afforded protection from point and non-point discharges under existing State law and regulations and have requirements under law and regulation for stream crossings.

DEC's water quality professionals classify streams throughout New York and need to have priorities for processing permits on critical waterways and not use up limited resources available for less pressing matters. Where warranted class C streams can by regulation get the trout (T) designation and added protection. Adding this additional classification for all Class C streams will burden not only the Department but forest land owners who, when faced with additional regulations, may choose to not steward their forests.

New York's forests are under assault from invasive pests and diseases, over browsing from deer and a lack of age diversification which is critical to wildlife. Our forests are already under performing in regards to regeneration and if we expect to have the environmental benefits they afford society as well as the economic benefits of a healthy forest economy we need active forest management. This legislation would serve to discourage sustainable forest management rather than encourage it.

For these reasons, ESFPA cannot support this legislation. This revised memorandum surpasses and replaces any earlier memorandum or communication we have had on this legislation.

Cc: Assembly Environmental Conservation Committee Members
Senate Environmental Conservation Committee Members
Senate Finance Committee Members

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