



Riverkeeper 2021 Legislative Memorandum

Support - S4162/A6652 (Harckham/Englebright) - Support

AN ACT to amend the environmental conservation law, in relation to the protection of certain streams.

Riverkeeper strongly supports S4162/A6652, adding thousands of stream miles in New York to the list of protected classes. This legislation recognizes that water is a crucial asset for New York to protect, regardless of the classification. The legislation adds protections to nearly 41,000 miles of streams across New York. The addition of class C streams to the list of protected classes in the Protection of Waters Regulatory Program managed by the Department of Environmental Conservation, New York will further extend clean water and drinking water source protections.

Under current regulations for class AA, A, B streams and class C streams that support trout populations or may support trout spawning are protected from certain activities and require a permit for many others such as stream bank or bed disturbance. Many activities are exempt from requiring a permit including, irrigating from a stream; crossing a stream for agricultural uses, including livestock; local governments with the written permission of DEC; and removal of trees and debris; and other activities.

In addition to these exemptions, DEC may also issue an Emergency Declaration/Authorization in certain circumstances that exempt certain activities from the regular permitting process due to events that immediately threaten life, health, property, general welfare, and natural resources and require a prompt response. For non-emergency cleanup and repair work general permits for storm recovery may be issued for affected regions of the state for work necessitated by severe storms which may include heavy rains, flash flooding, thunderstorms, etc. These processes provide for the ability to bypass the permitting process in order for local governments, and utility companies to promptly respond to emergency and non-emergency clean-up activities.

In the Hudson River Watershed, at least 40 percent of stream miles lack protections according to an analysis of DEC data. Riverkeeper has documented both vulnerabilities to public drinking water supplies, and actual harm to water quality and habitat that has resulted from alteration of Class C streams.

Finally, it is of critical importance to highlight that drinking water source protection is an environmental justice issue. Those downstream drinking the water are often reliant on the land-use decisions of those living upstream, who are often wealthier, whiter and often benefiting from housing, mortgage and zoning policies that had racist intent and/or impact. Protecting Class C streams in these cases will promote environmental justice by improving protections that downstream communities need.

We urge the legislature to once again pass this critical clean water legislation in the 2021 session.

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