



Empire State Forest Products Association

The people behind New York's healthy forests and quality wood products

www.esfpa.org

47 Van Alstyne Drive / Rensselaer, New York 12144 / p: 518-463-1297 / f: 518-426-9502

Memorandum of Opposition

S 1725-A

Honorable Peter Harckham
Senator
812 LOB
Albany, NY 12247

April 21, 2023

Dear Senator Harckham:

The Empire State Forest Products Association has significant concerns with **S. 1725-A** which could have deleterious impacts on forest management and timber harvests on private forest lands throughout New York State. This bill would add 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).

The Empire State Forest Products Association (ESFPA) represents more than 350 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 (trout) classification added to them which does add them to the Protection of Waters Regulatory Program.

Extending the added 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 thousands 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. With 64% of New York's terrestrial landscape being forested, this legislation will impact hundreds of thousands of forest landowners and impeded sustainable forest management that is essential for natural solutions to climate change.

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McPhillips, Fitzgerald & Cullum

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 be regulated by extending the trout (T) designation and added protection. Adding all class C streams to this expanded classification 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 also has a well established voluntary Water Quality Best Management Program (BMP) for forest management and timber harvesting that meets the regulatory requirements of the federal Clean Water Act for forest roads and timber harvests around streams. Forest management activities on private lands overwhelmingly occur under the auspices of comprehensive state approved BMPs that are designed to protect water quality and habitat for aquatic organisms. In the forestry context, BMPs refer to a practice or combination of practices designed to prevent or mitigate water quality impacts.

The training and implementation rates of BMPs have resulted in measurable environmental benefits. A robust body of scientific literature reinforces the conclusion that properly implemented forestry BMPs protect not only water quality, but also in-stream habitat conditions for species. The scientific literature increasingly demonstrates the effectiveness of BMPs in preventing, minimizing, and mitigating discharges affecting water quality and aquatic habitats. Similarly, we find an absence of scientific literature that demonstrates that forest management and silvicultural practices, including harvesting timber, are causing water quality impacts.

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. Our voluntary BMPs for Water Quality ensures that foresters and loggers 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.

For these reasons, ESFPA cannot support this legislation.

The amendment for Soil & Water Conservation Districts is an improvement over the original bill and will minimally benefit forest landowners, but more needs to be done. In last year's Budget process we worked with the Governor and Legislature on establishing a limited exemption for agriculture and silviculture practices to Freshwater Wetlands Act while expanding the regulatory jurisdiction of this program. We would welcome the opportunity to continue to work on language providing for a limited exemption for agriculture and silviculture for the Protection of Water Regulatory Program as addressed in this bill. We believe we could reach consensus on our concerns enabling us to support this legislation.

Cc: Senate Finance Committee

For more information contact:

John K. Bartow, Jr.
Executive Director
Empire State Forest Products Association
47 Van Alstyne Drive
Rensselaer, NY 12144
Tel (518) 436-1297
Cell (518) 573-1441
jbartow@esfpa.org