

## ASSEMBLY, No. 2608

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# STATE OF NEW JERSEY

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INTRODUCED DECEMBER 16, 1996

By Assemblywoman ALLEN and Assemblyman DeSOPPO

1   **AN ACT** concerning certain stream cleaning activities and amending  
2   P.L.1993, c.376.

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

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7       1. Section 1 of P.L.1993, c.376 (C.58:16A-67) is amended to read  
8   as follows:

9           1. a. The provisions of any other law, or any rule or regulation  
10   adopted pursuant thereto, to the contrary notwithstanding, a county  
11   or municipality, or designated agency thereof, before undertaking any  
12   project to clean, clear, or desnag a stream within its jurisdiction, shall  
13   submit to the Department of Environmental Protection or to any State  
14   agency requiring a stream cleaning permit or an application for the  
15   proposed stream cleaning, clearing or desnagging project, a written  
16   notice of intent to undertake a project to clean, clear, or desnag a  
17   stream and a certification attested to by the county or municipal  
18   engineer or the local soil conservation district, provided that the  
19   certification is made by a licensed professional engineer. The engineer  
20   shall certify that:

21           (1) the project is being undertaken solely for the purpose of stream  
22   cleaning, clearing, or desnagging;

23           (2) the removal of any material will not extend below the natural  
24   stream bed;

25           (3) the activities will not alter the natural streambanks;

26           (4) the activities will consist of the removal only of accumulated  
27   debris and garbage from a stream with a natural stream bed or the  
28   removal of any accumulated material from a stream previously  
29   channelized with concrete or similar artificial material;

30           (5) every effort will be made to perform work from only one  
31   streambank and that vegetation and canopy on the more southerly or  
32   westerly banks will be preserved for stream shading; and

33           (6) the activities are necessary and in the public interest.

34       The notice shall also include a description of the nature of the

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

Matter underlined thus is new matter.

1 project, a description, including a photograph, of the reach of the  
2 stream in which the activity is to take place, and an identification of  
3 the regulatory water quality classification of the stream in which the  
4 activity is to take place. The reach of the stream may be provided by  
5 the submission of a photostatic copy of the United States Geological  
6 Survey topographic quadrangle.

7 b. Upon receipt of a notice and certification submitted pursuant to  
8 this section, the department, or any other State agency requiring a  
9 stream cleaning permit or an application for the proposed stream  
10 cleaning, clearing or desnagging project, as the case may be, shall have  
11 30 days to notify the county or municipality, or designated agency  
12 thereof, if particular circumstances mandate that the stream cleaning  
13 not be done in this particular case. If the department, or any other  
14 State agency requiring a stream cleaning permit or an application for  
15 the proposed stream cleaning, clearing or desnagging project, as the  
16 case may be, makes such a determination, it shall provide the county  
17 or municipality, or designated agency thereof, with the technical  
18 reasons therefor.

19 c. Notwithstanding the provisions of this section or any other law,  
20 rule, or regulation to the contrary, a county or municipality, or  
21 designated agency thereof, shall not be required to obtain a permit  
22 from or the approval of the Department of Environmental Protection  
23 or any other State agency prior to conducting a stream cleaning,  
24 clearing or desnagging project for any nontROUT stream or intermittent  
25 stream. A county, municipality, or designated entity thereof may  
26 clean, clear or desnag a stream pursuant to this subsection only if the  
27 notice and certification requirements set forth in subsection a. of this  
28 section are met.

29       As used in this subsection,

30       "Intermittent stream" means a stream with a minimum average  
31 seven consecutive day flow with a statistical recurrence interval of 10  
32 years, of less than one-tenth (0.1) cubic foot per second; and

33       "NontROUT waters" means fresh waters not designated by the  
34 Department of Environmental Protection as trout production or trout  
35 maintenance.

36       d. Any person or governmental entity violating the provisions of  
37 this [act] section shall be subject to penalties imposed for violations of  
38 the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50  
39 et seq.).

40 (cf: P.L.1993, c.376, s.1)

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42 2. This act shall take effect immediately.

1                   STATEMENT  
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3       This bill would eliminate the need for counties and municipalities,  
4       and their agencies, to get a permit or approval from the Department  
5       of Environmental Protection or any other State agency in order to  
6       engage in a stream cleaning, clearing or desnagging project upon  
7       certain streams. The intent of this provision is to allow local  
8       governments to engage in minor stream cleaning activities without the  
9       need to wait long periods of time for State approvals.

10      Local governments would only be exempted from the need to  
11     obtain a permit or approval for those activities on nontROUT waters and  
12     intermittent, or small, streams. The bill provides that only certain  
13     minor cleaning activities may be undertaken under this exemption.  
14     The local government would also be required to submit a notice and  
15     an engineering certification to the relevant State agencies prior to the  
16     commencement of the project. The limitations, notices, and  
17     certifications will prevent any actions being undertaken that may cause  
18     environmental harm to the stream or the surrounding area.

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23     Eliminates the need to obtain State permit or approval for certain  
24     stream cleaning activities.