



## Riverkeeper's 2021 Legislative Memorandum

### Support - S2979 (Harckham) - Support

*AN ACT to amend the environmental conservation law, in relation to freshwater wetlands and repealing section 24-1305 of such law relating thereto.*

Riverkeeper strongly supports S2979 to expand protections to New York's threatened freshwater wetlands. New York has the opportunity to protect these fragile ecosystems that provide an array of benefits from providing the sources of clean drinking water to habitat.

Protecting wetlands is important to preserve community resilience in the face of climate change; mitigate the impacts of flooding; filter surface waters of some pollutants; and provide habitat to fish, birds, insects, amphibians and mammals.

The key features in this legislation include increased protection for wetlands in New York from the current 12.4 acres to 1 acre or larger, and removing the requirement that wetlands appear on DEC promulgated maps in order to receive protection if they have the ecology of wetland environments. Removing the mapping requirement will ensure wetlands of 1 acre or larger are protected along with the clean water benefits they provide.

Many of these DEC wetlands maps have not been updated in decades, and therefore do not identify wetlands that meet current regulatory thresholds and therefore may not receive the protection they are afforded under current state law. State law directs the Commissioner of the DEC to identify and map individual wetlands. While all tidal wetlands are regulated under Section 24-0301 of the Freshwater Wetlands Act, New York governs activity in only those freshwater wetlands greater than 12.4 acres in size, unless designated as a wetland of "unusual local importance."

Due to changes in Clean Water Act jurisdiction as a result of the Supreme Court decision in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, narrowed the federal government's ability to protect freshwater wetlands. That means that isolated wetlands in New York previously protected under the prior interpretation of the Clean Water Act lost protection if they are under 12.4 acres or are not included in DEC's official wetlands maps. In addition, the Trump administration's "Waters of the United States" deregulatory rulemaking threatens to further weaken federal protections for a much greater number of waterways and wetlands.

Passing S2979 is a superb opportunity for New York to repudiate the misguided environmental approach of the Trump administration and ensure wetlands and the clean water and flood protection benefits they provide are protected for future generations.

### **Riverkeeper strongly supports the S2979 (Harckham)**

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