

# PROTECT THE ADIRONDACKS!

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January 30, 2014

Phil Hulbert  
NYSDEC  
625 Broadway  
Albany, NY 12233

## **RE: Public comments on Part 59, Section 59.4, Part 190, Section 190.24 “Aquatic Invasive Species Control at State Boat Launching and Fishing Access Sites”**

Dear Mr. Hulbert,

The proposed new regulations (Part 59, Section 59.4, Part 190, Section 190.24 “Aquatic Invasive Species Control at State Boat Launching and Fishing Access Sites”) from the Department of Environmental Conservation (DEC) to help control the spread of aquatic invasive species (AIS) on boats using the hundreds of state boat launches and fishing access sites is a partial step forward in efforts to protect the waters of New York State from AIS. Much more is needed from the DEC to proactively protect state waters.

The lakes, ponds and rivers throughout New York are of great economic importance as they support high property values, contribute to a high quality of life, and underwrite the important tourism economy of Upstate New York. AIS infestation has damaged and impaired many water bodies across New York. Local governments, the state, and private organizations spend millions of dollars annually in AIS prevention, control and education programs. The response of the State of New York, especially of the DEC, has failed to meet the immense challenge of the AIS threat. Infestations have spread across New York and there have been few success stories of effective treatments to contain or control AIS in New York’s waters.

The DEC needs to act as New York’s environmental leader to develop a comprehensive program for the prevention, interdiction, control and public education about AIS. Unfortunately, as evidenced with scant funding in the NYS Environmental Protection Fund (EPF), AIS control remains a chronically low priority for state leaders.

### **Protect the Adirondacks**

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One principle of AIS management is that prevention is a more successful long-term strategy than direct management. It's very difficult to eradicate AIS once established in a water body. It's far cheaper to focus efforts on interdiction and prevention than direct management. It's also much better for the ecological health of a water body to prevent an AIS infestation, rather than try and remove AIS once established.

Most DEC boat launches are open and unsupervised 24 hours each day and seven days a week during the boating season. The proposed new regulations are designed to criminalize the transport of AIS at state boat launches and fishing access sites. While this is a positive step, it is overshadowed by the limitations the DEC faces for serious enforcement.

The proposed new regulations are also overshadowed by the immensity of the AIS threat across New York and the meager programmatic response by the DEC. While New York has put together AIS plans and organized the Partnerships for Regional Invasive Species Management (PRISM) program, strong state action is needed to support the AIS control actions of local partners. Here are a few actions that should be priorities for New York leaders and the DEC:

1. NYS must pass legislation that criminalizes the transport of AIS and fully empowers state and local law enforcement at every level to enforce this law. Fines must be serious.
2. NYS must pass legislation that criminalizes the launching of an infested boat into a water body by a boat owner as well as by the boat launch operator.
3. NYS must help to create a comprehensive inspection and decontamination infrastructure across the state in partnership with the PRISMs and local governments, based upon accessible decontamination stations.
4. NYS must organize a registry of infested and non-infested waterways and continuously update this database.
5. Adequate, sustained funding is badly needed for AIS management. EPF funding at \$4.6 million annually is inadequate. A dedicated funding source is needed. Successful AIS control programs, such as seen on Upper Saranac Lake or on Lake Tahoe, are based on annual efforts that are properly funded so that there is no interruption in action. New York should pass a \$25 annual surcharge on boat registrations that should form a dedicated fund for AIS control as part of the Invasive Species account in the EPF.

These measures would significantly improve New York's ability to manage AIS and protect New York's waters.

### **Aquatic Invasive Species Infestation is a Great Threat to the Adirondack Park and New York State**

Aquatic invasive species (AIS) infestation is one of the great threats to the waters of the Adirondack Park and New York. AIS can rapidly change the ecology of a lake, wetland,

stream or river as well as significantly diminish the recreational enjoyment of a water body. According to the Adirondack Park Invasive Plant Program (APIPP), 94 lakes are infested and 11 different AIS have been documented in Park water bodies and it is believed that 16 lakes have two or more. Prospects for eradication of AIS from these waters are few. While 94 Adirondack Park water bodies are infested with various AIS, the Park still remains an area in New York where the great majority of water bodies remain clean and uninfested by AIS. Better than two-thirds of the biggest and most accessible lakes, ponds and rivers in the Adirondack Park remain uninfested by AIS.

AIS that infest water bodies in the Adirondack Park include Eurasian watermilfoil (*Myriophyllum spicatum*), curly leaf pondweed (*Potamogeton crispus*), variable leaf milfoil (*Myriophyllum heterophyllum*), water chestnut (*Trapa natans*), zebra mussels (*Dreissena polymorpha*), Asian clams (*Corbicula fluminea*), spiny water flea (*Bythotrephes longimanus*), brittle naiad (*Najas minor*), European frog-bit (*Hydrocharis morsus-ranae* L.), yellow floating heart (*Nymphoides peltata*), fanwort (*Cabomba caroliniana*) and variable-leaf milfoil (*Myriophyllum heterophyllum*). Eurasian watermilfoil is the most widely spread AIS, believed to have infested over 50 lakes in the Adirondack Park.

Two of the most damaging AIS are quagga mussels (*Dreissena bugensis*) and water hydrilla (*Hydrilla verticillata*). They have infested areas in close proximity to the Adirondack Park in the Great Lakes and Finger Lakes. Both have wrought tremendous damage in areas where they have not been controlled and have caused billions of dollars in negative economic impacts around the Great Lakes. Neither can be controlled.

The main vector for spreading AIS throughout New York is the transport of motorboats for public recreation. Thousands of boats are brought to the Adirondack Park each year for public recreation and used on Adirondack Park lakes, ponds, and rivers.

AIS are spread overwhelmingly by the transport of motorboats where they attach to the engines, hulls, and trailers, among other places, and are carried from one lake to another. In juvenile stages, microscopic AIS animals, such as Asian clams, quagga mussels and spiny water flea, are transported in standing ballast waters, engine water and in live wells and bait buckets on boats.

Control of Eurasian watermilfoil (*Myriophyllum spicatum*) in Upper Saranac Lake has cost millions of dollars. Over \$5 million has been spent in an effort to control various AIS in Lake George. The long-term costs to control AIS in Adirondack lakes, ponds and rivers is already beyond the ability of local governments and private organizations.

One principle of AIS management is that prevention is a more successful long-term strategy than direct management. Once an AIS is established in a water body, it's very difficult to remove it. It's far cheaper to focus efforts on interdiction and prevention than direct management. It's also much better for the ecological health of a water body to prevent an AIS infestation, rather than try and control or eradicate it once established.

One of the best programs for mandatory boat inspection and decontamination to prevent AIS is in effect for Lake Tahoe in California and Nevada. Started in 2009, this highly successful program shows that an effective interdiction and prevention program can be

administered for a large, popular and complicated lake. No new AIS infestations have been found since the start of this program.

Many active programs to halt the transport and spread of AIS are in effect at the state levels in the Midwest and western U.S. These programs chiefly rely upon a mix of voluntary and mandatory inspections of motor boats.

For more than a decade voluntary public education efforts about the spread of AIS through motor boat transport have been managed at various locations around the Adirondack Park. These efforts have successfully reached thousands of boat operators, but failed to stop the overall spread of AIS. Voluntary inspections rely upon visual observations for AIS attached to boat hulls and trailers. A key vector for transport of AIS is standing ballast water, water in boat engines and live wells. PROTECT believes that a strong prevention program is needed that is built upon a comprehensive inspection and decontamination effort of all boats entering Adirondack Park and New York State waters to stop the spread of AIS. PROTECT believes that voluntary programs should be empowered to undertake mandatory, comprehensive inspections.

PROTECT supports a comprehensive AIS management program for the Adirondack Park and New York that includes as its central focus a mandatory boat inspection and decontamination program to prevent further new AIS infestations. This program should be managed by the NYS Department of Environmental Conservation (DEC) in partnership with the PRISM program and local governments.

#### **Mandatory Boat Inspection and Decontamination Program should be Funded by New Boat Registration Surcharge**

The NYS 2012 Recreational Boating Report states “Recreational boating in New York State is a \$2 billion industry enjoyed by millions of residents and visitors alike. With nearly 460,000 registered powerboats and perhaps another 300,000 non-powered watercraft, New York ranks 7<sup>th</sup> in the nation for registered boats.” PROTECT calls for the creation of a \$25 surcharge to be added to boat registrations in New York. This program would raise \$11.5 million dollars, which should be included as a dedicated fund within the Environmental Protection Fund (EPF) for invasive species protection. The current EPF level of support for invasive species control is completely inadequate, with just \$4.6 million dedicated to invasive species control.

#### **New Lake George Mandatory Boat Control Program should be Embraced by NYS as a Model**

PROTECT supports the new mandatory boat inspection and decontamination program just enacted by the NYS Lake George Park Commission (LGPC) to prevent the transport and introduction of AIS into Lake George. This program will begin on May 15<sup>th</sup>. Lake George is one of the most prominent lakes in the eastern U.S. It is known internationally for its high water quality, clarity, and scenic beauty. This new program should serve as a model for state management of AIS and should be widely embraced by the DEC and administration of Governor Andrew Cuomo.

AIS infestation is one of the major threats facing the ecological health and economy of Lake George and the Adirondack Park. AIS can rapidly change the ecology of a lake, wetland, stream or river as well as significantly impair and diminish recreational enjoyment.

It should be noted that even with eight years of organized voluntary visual inspections, two new AIS infestations occurred during these years on Lake George. This is why local leaders actively pushed for a comprehensive AIS /boat control program for Lake George.

Lake George has been infested with AIS since the mid-1980s with Eurasian water milfoil (*myriophyllum spicatum*) and curly leaf pondweed (*Potamogeton crispus*). In 1999, zebra mussels (*Dreissena polymorpha*) were found. In 2010, Asian clams (*Corbicula fluminea*) were found and in 2012 and spiny water flea (*Bythotrephes longimanus*) was also discovered. With the exception of spiny water flea, all other AIS in Lake George are under active management. Total AIS management cost topped \$1.2 million in 2012.

We note that the new comprehensive Lake George boat control program has strong support from local governments around Lake George and the business community, all of who depend upon a healthy Lake George. These stakeholders have consistently and ardently expressed their support for a comprehensive boat control program for Lake George.

The new Lake George boat control program will significantly boost long-term protection of Lake George, which is the most important economic asset of the greater Warren County area and vital to its quality of life.

PROTECT believes that the Lake George boat control program should be financed by increased boat and docks fees administered by the Lake George Park Commission.

### **Critical Weaknesses in Proposed DEC Regulations**

Below, please find specific comments from Protect the Adirondacks about the new DEC proposed (Part 59, Section 59.4, Part 190, Section 190.24 “Aquatic Invasive Species Control at State Boat Launching and Fishing Access Sites”) AIS regulations for state boat launches and fishing access sites.

1. The current regulations do not state who will be responsible for enforcement. PROTECT has little confidence that DEC will devote the necessary resources to effectively police and enforce these regulations.
2. The current regulations do not set a penalty or fine for violators. PROTECT believes that the penalties should be severe.
3. The draft regulations state that boats should arrive clean, drained and dry. Efforts to clean-out boats lakeside may result in inadvertent transfer and introduction of microscopic veligers or juveniles. Many DEC boat launches face limitations for space for proper decontamination and often drains into the associated water body.

4. As a stand-alone program, these regulations are limited in scope and effectiveness. New York needs a comprehensive statewide AIS prevention, interdiction, control and education program based on mandatory inspections and boat decontaminations and criminalizing the transport and launching of AIS infested boats.

On behalf of the Board of Directors of Protect the Adirondacks, please let me express our gratitude for the opportunity to submit these public comments on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Bauer". The signature is fluid and cursive, with the first name "Peter" being more prominent than the last name "Bauer".

Peter Bauer  
Executive Director