

**Adirondack Council
Adirondack Mountain Club
Adirondack Wild: Friends of the Forest Preserve
Adirondack Wilderness Advocates
National Audubon Society
Protect the Adirondacks
Riverkeeper
Seatuck Environmental Association
Sierra Club Atlantic Chapter**

September 26, 2024

John Ernst
Chair
Adirondack Park Agency
P.O. Box 99
Ray Brook, NY 12977

Barbara Rice
Executive Director
Adirondack Park Agency
P. O. Box 99
Ray Brook, NY 12977

RE: APA Regulations to Implement Amendments to Freshwater Wetlands Act

Dear Chairman Ernst and Executive Director Rice:

As you know, the Adirondack Park Agency (“APA”) is responsible for administering and enforcing the Freshwater Wetlands Act (“FWA”), Environmental Conservation Law (“ECL”) Article 24, within the boundaries of the Adirondack Park. ECL § 24-0801. On April 9, 2022, Governor Hochul signed into law significant amendments to the FWA. S.8008C, A. 9008C, TEDE QQ, 2021-2022 Sess. (N.Y. 2022). Among other things, the FWA amendments provide that, effective January 1, 2025, wetlands of “unusual importance” will be afforded regulatory protections regardless of size. *Id.* § 1. The amendments establish eleven new criteria for determining whether smaller wetlands are of unusual importance.

The FWA amendments clarify and expand APA’s jurisdiction over wetlands in the Adirondack Park and the extent to which those wetlands are protected. Thus, the undersigned organizations are writing to urge the APA to expeditiously update its wetland regulations, 9 NYCRR Part 578, to implement these important FWA amendments.

The Department of Environmental Conservation (“DEC”) initiated its process to amend the DEC wetland regulations in January 2024 and published its Notice of Proposed Rulemaking for regulations implementing the FWA amendments on July 10, 2024. Among other things, DEC’s proposed regulations include specific biological standards for determining whether a vernal pool or vernal pool complex is productive for amphibian breeding. DEC is also proposing to establish an 800-foot protective buffer around vernal pools and vernal pool complexes that meet the regulatory standard for productivity.

It is essential that APA expeditiously develop regulations to implement these key provisions of the FWA amendments. We therefore request that APA inform the public of its schedule for developing the necessary regulatory amendments and for providing the public with an opportunity to comment on the proposed regulatory changes.

Thank you for your consideration of this important issue.

Sincerely,

Raul J. Aguirre, Executive Director, Adirondack Council

Julia Goren, Interim Executive Director, Adirondack Mountain Club

David Gibson, Managing Partner, Adirondack Wild: Friends of the Forest Preserve

Pete Nelson, Chair, Adirondack Wilderness Advocates

Erin McGrath, Policy Director, National Audubon Society

Peter Bauer, Executive Director, Protect the Adirondacks

Drew Gamils, Senior Attorney, Riverkeeper

Enrico G. Nardone, Executive Director, Seatuck Environmental Association

Roger Downs, Conservation Director, Sierra Club Atlantic Chapter

cc: Megan Phillips, Deputy Director for Planning
David J. Plante, Deputy Director for Regulatory Programs
Damion K. L. Stodola, Counsel