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#### **Via Email**

May 20, 2025

Senator Pete Harckham  
New York State Senate  
Legislative Office Building, Room 315  
Albany, NY 12247

Senator Rachel May  
New York State Senate  
Legislative Office Building, Room 803  
Albany, NY 12247

**RE: Comments of Protect the Adirondacks  
New York State Senate Public Hearing to Evaluate the Efficacy  
of the State's Monitoring and Management of Harmful Algal  
Blooms (HABs) and Examine Potential Legislative Solutions**

Dear Senator Harckham and Senator May:

Protect the Adirondacks (PROTECT) appreciates this opportunity to provide comments concerning potential legislative solutions to the increasing statewide problem of harmful algal blooms (HABs). As discussed below, PROTECT urges your consideration of legislation requiring inspection of individual septic systems at the time of property transfer—a measure that will address a major source of HABs and improve water quality.

#### **What Are Harmful Algal Blooms (HABs) and Why Are They a Threat?**

HABs are rapid overgrowths of algae—often cyanobacteria, or “blue-green algae”—that can produce toxins harmful to people, pets, livestock, and wildlife. These blooms degrade water quality, result in beach closures, reduce recreational access, contribute to fish kills, and drive up the costs of water treatment for municipalities and homeowners alike. HABs are increasingly common across New York State, including in the lakes and rivers of the Adirondack Park.

**Protect the Adirondacks**

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HAB blooms are often fueled by nutrient pollution, particularly phosphorus and nitrogen, which enter waterways from a variety of sources—including agricultural runoff, stormwater, and, critically, failing or poorly sited septic systems.

### **Failing Septic Systems Are a Major Contributor to HABs**

PROTECT believes that an effective legislative solution to New York’s HAB problem must address the widespread issue of failing individual septic systems. Wastewater from these systems can contain harmful bacteria—particularly fecal coliforms—as well as viruses and protozoa, which can seep into nearby waterbodies, contaminating drinking water sources and posing serious public health risks. According to the Cornell Cooperative Extension Water Quality guide, such contamination can cause ailments ranging from eye and ear infections to more serious conditions like dysentery and hepatitis.<sup>1</sup>

Environmental damage from these systems is equally concerning. Failing septic systems release excessive nutrients—especially phosphorus and nitrogen—along with other pollutants like chloride. These pollutants fuel the overgrowth of algae and aquatic plants, leading to oxygen depletion (hypoxia), which can devastate aquatic ecosystems.<sup>2</sup>

One of the most harmful consequences of nutrient pollution is the proliferation of HABs in New York’s water bodies. In the Adirondack Park, HABs have become increasingly common in Adirondack lakes and reservoirs. Lake Colby, Lower Saranac Lake, and Moose Pond experienced their first-ever documented cyanobacteria blooms in 2022,<sup>3</sup> and the Lake George Park Commission concluded in 2021 that nutrient loading from septic systems is a likely driver of HABs in the Lake George watershed.<sup>4</sup>

A growing body of scientific research affirms the connection between failing septic systems and HAB formation. A 2020 Florida Atlantic University study found that septic systems—not stormwater or other sources—were the primary contributors of elevated nitrogen in a freshwater estuary, directly promoting algal blooms.<sup>5</sup> In addition, a U.S. Geological Survey study linked septic system density to nitrogen loading in surface waters,<sup>6</sup> and a report in the *Journal of*

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<sup>1</sup> Cornell Cooperative Extension. (n.d.). *Your Septic System and Water Quality*. <https://www.css.cornell.edu/cwmi/waterquality/septic/CCEWQ-YourSepticSystem-Print.pdf>

<sup>2</sup> U.S. Environmental Protection Agency. (n.d.). *Indicators: Phosphorus*. <https://www.epa.gov/national-aquatic-resource-surveys/indicators-phosphorus>; Adirondack Watershed Institute. (n.d.). *Analytes Measured by the Adirondack Lake Assessment Program*. <https://www.adklakes.org/analytes>

<sup>3</sup> Zachary Matson, Warm sunny fall weather produces HABs on Adirondack lakes, *Adirondack Explorer* (Nov. 14, 2022).

<sup>4</sup> Lake George Park Commission. (2021). *Literature Review: Septic System Nutrient Pollution and Management Strategies*. <https://lgpc.ny.gov/system/files/documents/2021/10/lgpc-literature-review-final-report-revised-10.28.21.pdf>

<sup>5</sup> Florida Atlantic University. (2020). *Septic systems major contributor to nitrogen in Florida’s Indian River Lagoon*. <https://www.fau.edu/newsdesk/articles/septic-system-study.php>

<sup>6</sup> Lindsey, B.D., & Tarr, A.R. (2000). *Relations between land use, water quality, and concentrations of nitrate in ground water in the eastern United States*. USGS Water-Resources Investigations Report 99–4206.

*Environmental Quality* documented the movement of nitrogen and phosphorus from residential septic leach fields into adjacent lakes.<sup>7</sup>

The data speak clearly. A 2001 Cornell University study found that roughly 20% of septic systems across New York State are failing.<sup>8</sup>

In the Adirondack Park, recent data from the Lake George Park Commission's 2023 inspection program found:

- 23% of septic systems failed,
- 16% were rated substandard,
- Only 46% passed inspection.

Even more concerning, 84% of systems in the Lake George Basin are located on properties with challenging environmental conditions that increase the risk of contamination.<sup>9</sup>

### **Septic Inspections at Property Transfer Will Help Prevent HABs**

Legislation requiring septic system inspections at the point of property transfer represents a critical, proactive step to break the cycle of nutrient pollution and protect New York's freshwater resources. Many of these systems—often buried and forgotten—go unchecked for decades. Property transfers are a natural and effective intervention point, offering both the financial means and legal leverage to identify and correct failing systems.

This type of policy is already in place in other states. Massachusetts has required septic inspections at property transfer under its Title 5 regulations since 1995. These inspections ensure system compliance, protect homebuyers, and help maintain water quality statewide.<sup>10</sup>

### **Conclusion**

New York has an opportunity to adopt a sensible, proven, and effective policy that protects public health, water quality, and aquatic ecosystems—especially in environmentally sensitive regions like the Adirondack Park. Legislation requiring septic inspections at the point of property transfer is a logical step forward. It ensures accountability, encourages timely repairs, and will significantly reduce the influx of nutrients into our lakes and rivers, helping to curb the spread and severity of harmful algal blooms statewide.

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<sup>7</sup> Reinoso, R., Torres, L.A., & Becares, E. (2017). Effect of septic system discharges on nutrient dynamics and algal growth in freshwater lakes. *Journal of Environmental Quality*, 46(5), 1115–1123.

<sup>8</sup> Cornell Cooperative Extension. (2001). *Your Septic System: Water Conservation*. Cornell Cooperative Extension Publication FS-1.

<sup>9</sup> Lake George Park Commission, Final Report 2023 LGPC Septic System Inspection Program and New Wastewater Regulations (n.d.) <https://lgpc.ny.gov/system/files/documents/2024/01/final-report-2023-lgpc-septic-inspection-program.pdf>

<sup>10</sup> Mass. State Environmental Code, Title 15, **310 CMR § 15.301**.

PROTECT strongly supports such legislation and urges your leadership in advancing this much-needed policy. Enclosed for your review and consideration is an LBD draft of such legislation. Please let us know if we can be of any assistance in helping you develop this legislation.

Sincerely,

A handwritten signature in black ink that reads "Claudia K. Braymer". The script is fluid and cursive, with the first letters of each word being capitalized and prominent.

Claudia K. Braymer  
Executive Director

enc.

Legislative Bill Drafting Commission  
14821-01-4

S.               -----  
                  Senate  
                  -----

IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
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IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

**\*REALPRLA\***

(Relates to septic system inspection  
prior to transfer of property)

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RP L. septic system inspection

AN ACT

to amend the real property law, in  
relation to septic system inspection  
prior to transfer of property

The People of the State of New  
York, represented in Senate and  
Assembly, do enact as follows:

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal:

s15 Addabbo	s34 Fernandez	s28 Krueger	s01 Palumbo	s42 Skoufis
s43 Ashby	s60 Gallivan	s24 Lanza	s21 Parker	s11 Stavisky
s36 Bailey	s12 Gianaris	s16 Liu	s19 Persaud	s45 Stec
s57 Borrello	s59 Gonzalez	s50 Mannion	s13 Ramos	s35 Stewart-
s46 Breslin	s26 Gounardes	s04 Martinez	s05 Rhoads	Cousins
s25 Brisport	s53 Griffo	s07 Martins	s33 Rivera	s44 Tedisco
s55 Brouk	s40 Harckham	s02 Mattera	s39 Rolison	s06 Thomas
s09 Canzoneri-	s54 Helming	s48 May	s61 Ryan	s49 Walczyk
Fitzpatrick	s41 Hinchey	s37 Mayer	s18 Salazar	s52 Webb
s17 Chu	s47 Hoylman-	s03 Murray	s10 Sanders	s38 Weber
s30 Cleare	Sigal	s20 Myrie	s23 Scarcella-	s08 Weik
s14 Comrie	s31 Jackson	s51 Oberacker	Spanton	
s56 Cooney	s27 Kavanagh	s58 O'Mara	s32 Sepulveda	
s22 Felder	s63 Kennedy	s62 Ortt	s29 Serrano	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a078 Alvarez	a047 Colton	a034 Gonzalez-	a137 Meeks	a016 Sillitti
a031 Anderson	a140 Conrad	Rojas	a017 Mikulin	a052 Simon
a121 Angelino	a032 Cook	a150 Goodell	a122 Miller	a075 Simone
a037 Ardila	a039 Cruz	a116 Gray	a051 Mitaynes	a114 Simpson
a035 Aubry	a043 Cunningham	a100 Gunther	a145 Morinello	a094 Slater
a120 Barclay	a021 Curran	a139 Hawley	a144 Norris	a005 Smith
a106 Barrett	a077 Dais	a083 Heastie	a045 Novakhov	a118 Smullen
a105 Beephan	a018 Darling	a028 Hevesi	a069 O'Donnell	a022 Solages
a107 Bendett	a053 Davila	a128 Hunter	a091 Otis	a110 Steck
a082 Benedetto	a072 De Los Santos	a029 Hyndman	a132 Palmesano	a010 Stern
a027 Berger	a003 DeStefano	a079 Jackson	a088 Paulin	a127 Stirpe
a042 Bichotte	a070 Dickens	a104 Jacobson	a141 Peoples-	a102 Tague
Hermelyn	a054 Dilan	a011 Jean-Pierre	Stokes	a064 Tannousis
a117 Blankenbush	a081 Dinowitz	a134 Jensen	a023 Pheffer	a086 Tapia
a015 Blumencranz	a147 DiPietro	a115 Jones	Amato	a071 Taylor
a073 Bores	a009 Durso	a125 Kelles	a063 Pirozzolo	a001 Thiele
a098 Brabenec	a099 Eachus	a040 Kim	a089 Pretlow	a033 Vanel
a026 Braunstein	a048 Eichenstein	a013 Lavine	a019 Ra	a055 Walker
a138 Bronson	a074 Epstein	a065 Lee	a030 Raga	a143 Wallace
a046 Brook-Krasny	a109 Fahy	a126 Lemondes	a038 Rajkumar	a112 Walsh
a020 Brown, E.	a061 Fall	a095 Levenberg	a006 Ramos	a041 Weinstein
a012 Brown, K.	a008 Fitzpatrick	a060 Lucas	a062 Reilly	a024 Weprin
a093 Burdick	a004 Flood	a135 Lunsford	a087 Reyes	a059 Williams
a085 Burgos	a057 Forrest	a123 Lupardo	a149 Rivera	a113 Woerner
a142 Burke	a124 Friend	a129 Magnarelli	a067 Rosenthal, L.	a080 Zaccaro
a119 Buttenschon	a050 Gallagher	a101 Maher	a025 Rozic	a096 Zebrowski
a133 Byrnes	a131 Gallahan	a036 Mamdani	a111 Santabarbara	a056 Zinerman
a044 Carroll	a007 Gandolfo	a130 Manktelow	a090 Sayegh	
a058 Chandler-	a068 Gibbs	a108 McDonald	a076 Seawright	
Waterman	a002 Giglio, J.A.	a014 McDonough	a084 Septimo	
a049 Chang	a148 Giglio, J.M.	a097 McGowan	a092 Shimsky	
a136 Clark	a066 Glick	a146 McMahon	a103 Shrestha	

1) Single House Bill (introduced and printed separately in either or  
both houses). Uni-Bill (introduced simultaneously in both houses and printed  
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2  
signed copies of bill and: in Assembly 2 copies of memorandum in support, in  
Senate 4 copies of memorandum in support (single house); or 4 signed copies  
of bill and 6 copies of memorandum in support (uni-bill).

1 Section 1. The real property law is amended by adding a new section  
2 468 to read as follows:

3 § 468. Septic system inspection. 1. As used in this section, "septic  
4 system" means an existing on-site wastewater treatment serving residen-  
5 tial properties and receiving sewage without the admixture of industrial  
6 wastes or other wastes, as defined in section 17-0701 of the environ-  
7 mental conservation law, in quantities of less than one thousand gallons  
8 per day.

9 2. Every seller of residential real property with a septic system must  
10 comply with the requirements of this section, except when the seller is:

11 (a) a court-appointed trustee or referee;

12 (b) a fiduciary who is administering a decedent's estate, a guardian-  
13 ship, a conservatorship, or a bankruptcy;

14 (c) a sheriff; or

15 (d) a seller of a newly constructed system that has not previously  
16 been used.

17 3. (a) Except as otherwise provided in this section, a seller of resi-  
18 dential property containing a septic system must have such septic system  
19 inspected by, or under the direction of, a licensed professional engi-  
20 neer, registered architect or another design professional as determined  
21 by the department of health prior to transfer of title in order to  
22 determine whether the system is operating in compliance with applicable  
23 laws, regulations and permits. Upon finding that such system is operat-  
24 ing in compliance with applicable laws, regulations and permits, a writ-  
25 ten certification to that effect signed by the person who inspected the  
26 system shall be provided to the seller.

27 (b) In the event that the inspection determines that the system is not  
28 operating in compliance with applicable laws, regulations and permits,

1 the person who inspected the system shall provide to the seller a writ-  
2 ten summary of the reasons for that determination.

3 4. No seller shall transfer title to real property without first  
4 providing to the purchaser of the residential property a copy of the  
5 certification required by subdivision three of this section.

6 5. The department of health is authorized to promulgate regulations  
7 implementing this section. Such regulations may:

8 (a) exempt real property that is subject to an on-site septic system  
9 inspection program that is administered by a local or regional govern-  
10 mental entity and the property to be transferred has been inspected in  
11 accordance with, at the most recent time required, by such inspection  
12 program and the system is operating effectively after such inspection;  
13 and

14 (b) provide for specific waivers, to be granted by the commissioner of  
15 health or the designated full-time city, county or part-county health  
16 department official, to deviate from the standards for remediating a  
17 septic system that is not operating effectively at the time of  
18 inspection when all of the following criteria apply:

19 (i) physical conditions at the particular site impose practical diffi-  
20 culties in complying with department of health regulations, or compli-  
21 ance with department of health regulations will result in a significant  
22 financial hardship to the seller;

23 (ii) appropriate protective measures to mitigate noncompliance are  
24 applied; and

25 (iii) the proposed design for remediation is not likely to pose a  
26 health hazard or create environmental contamination.

27 § 2. This act shall take effect on the ninetieth day after it shall  
28 have become a law. Effective immediately, the addition, amendment and/or

1 repeal of any rule or regulation necessary for the implementation of  
2 this act on its effective date are authorized to be made and completed  
3 on or before such effective date.