

Fairy Tales Can Come True  
It Can Happen to You

If You're Young at Heart  
If You Work as a Team





Department of  
Environmental  
Conservation

# Fairy Tales Can Come True

## ~~Update on New York State Wetland Policy~~

Tompkins County Water Resources Council  
November 21, 2022



# **Overview**

**Freshwater Wetland Protection Program in NY**

**Historic Challenges for the Program**

**Changes to the Freshwater Wetland Act**

**A Legislative Story**

**Key Provisions**

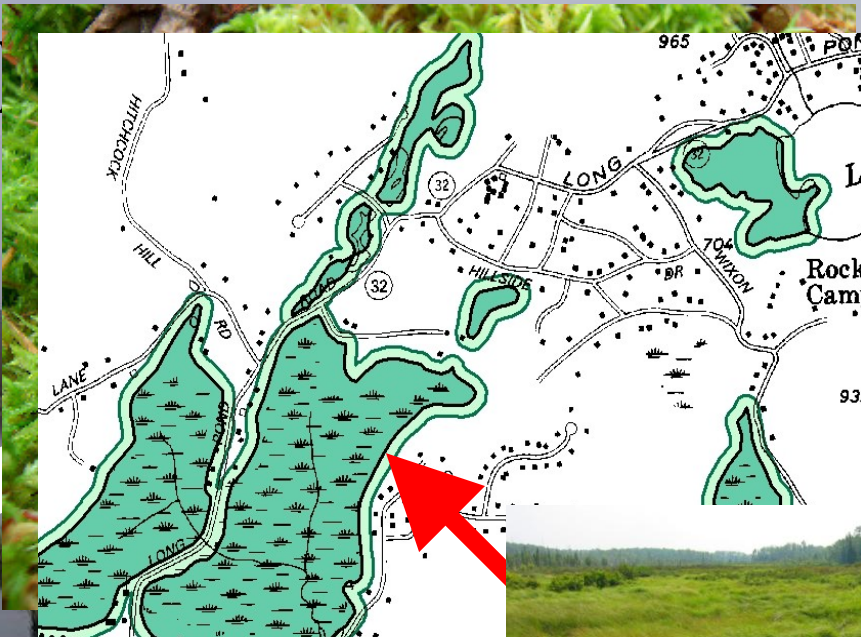
**The Path Forward**

**A Request for Thoughts**

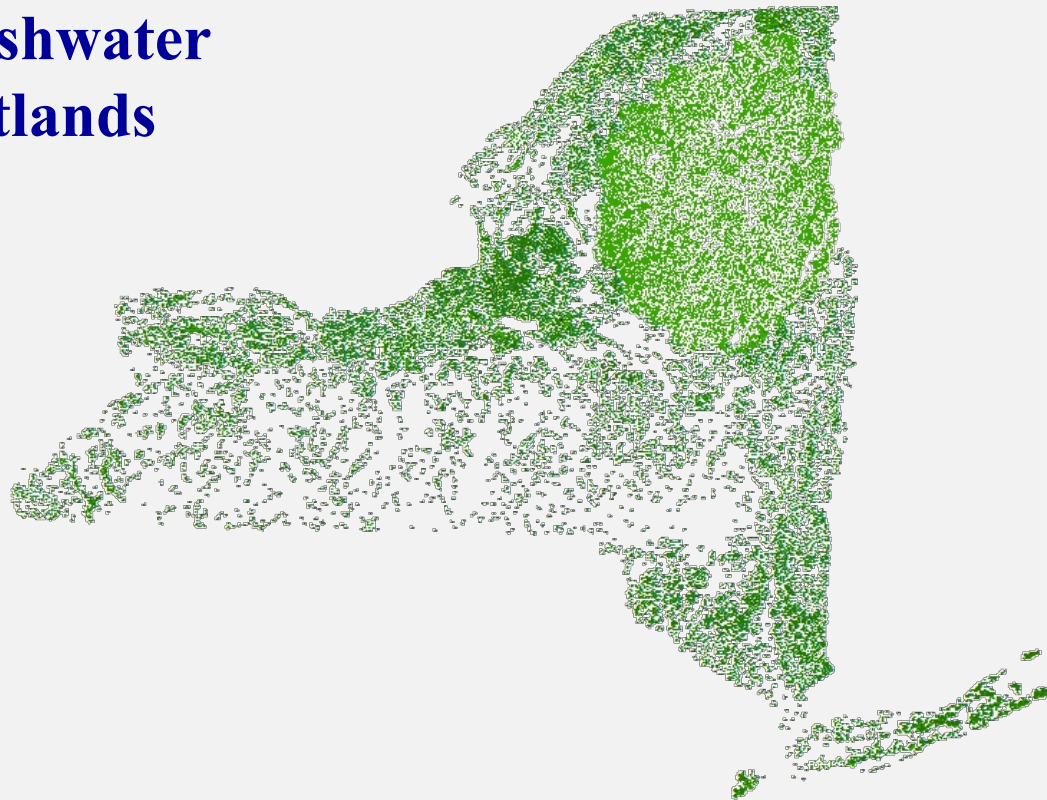
Article

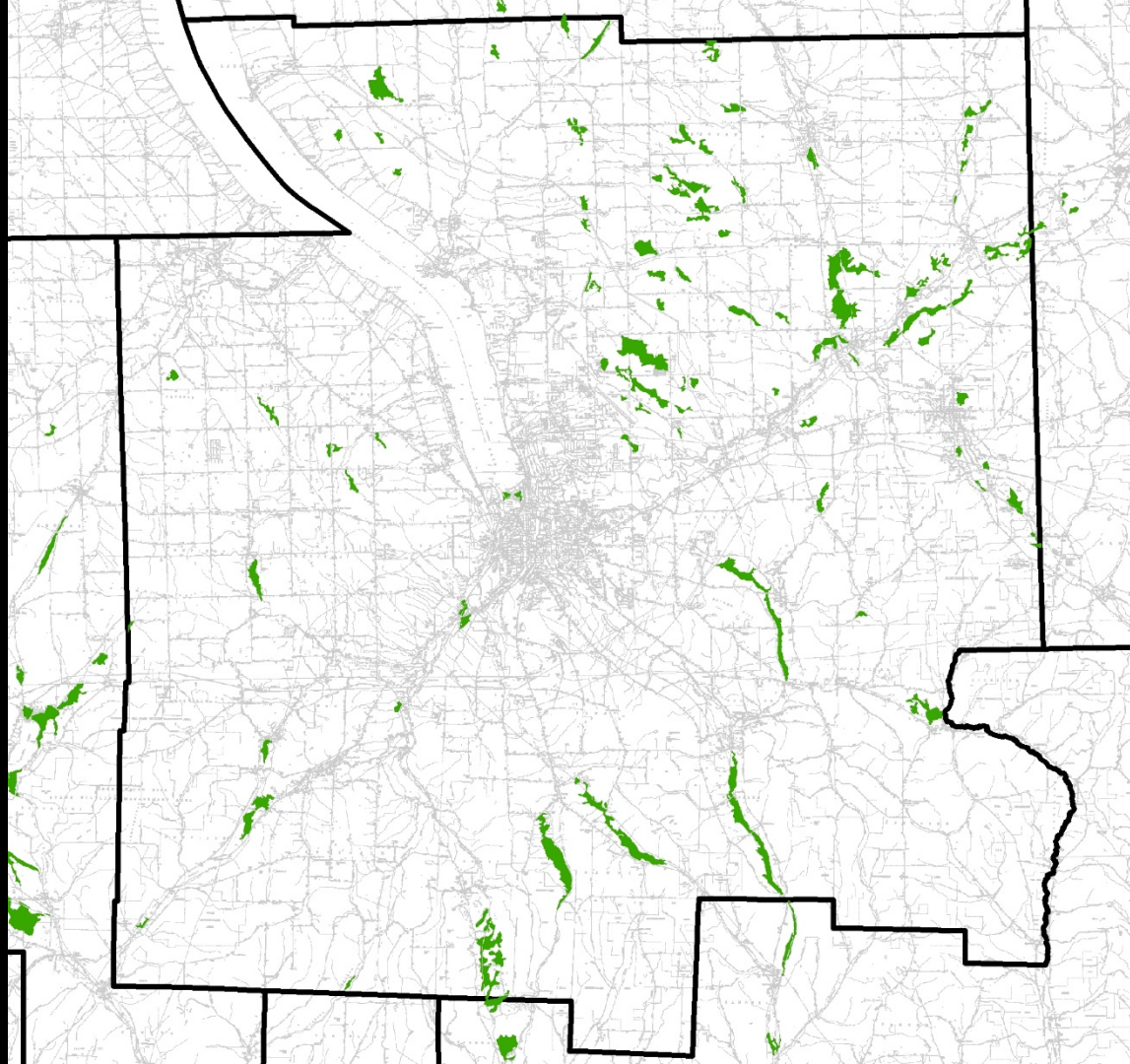
Water

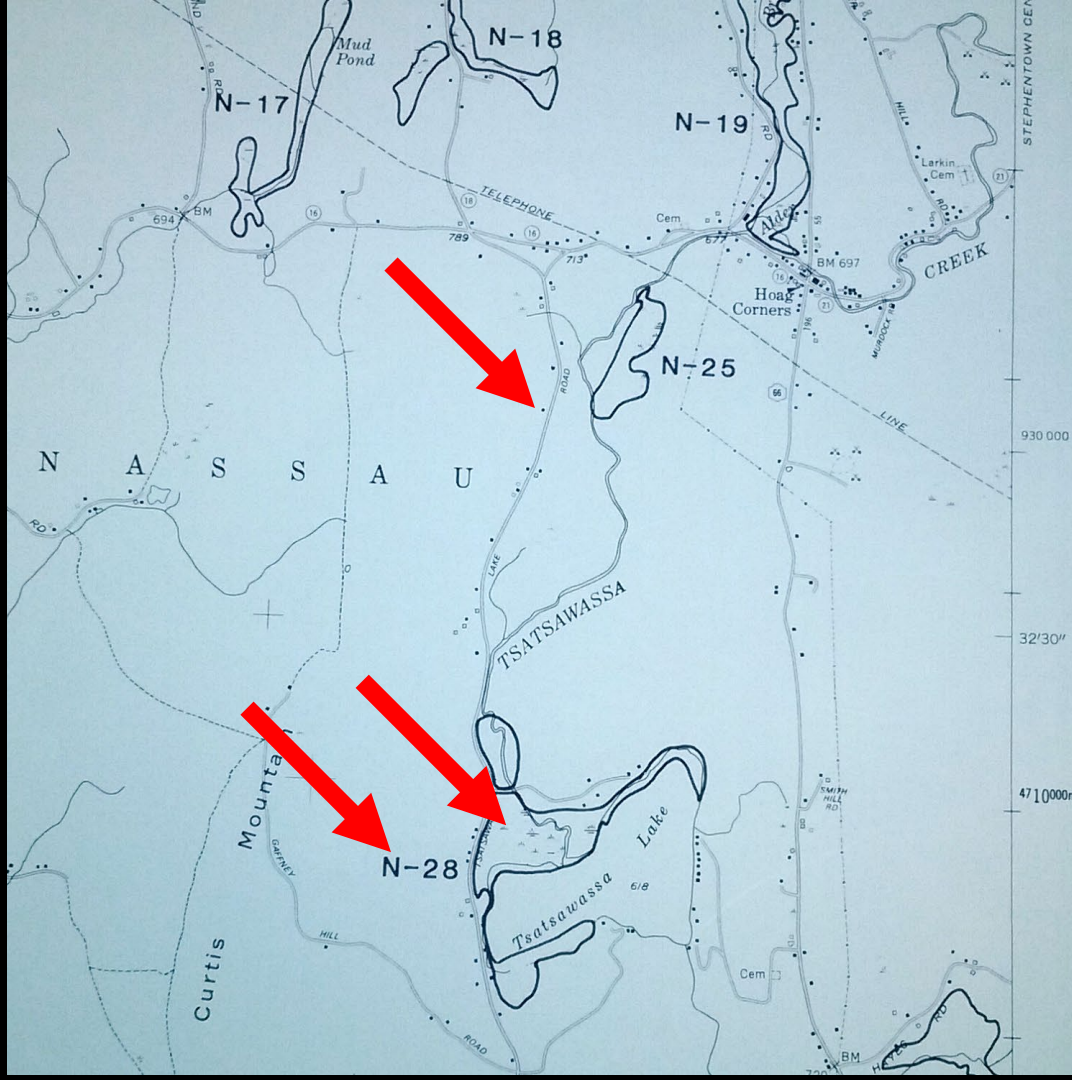
- Mapped Wetland Acres
- Unusual Local In
- 100 Foot Adjacent



# State Regulated Freshwater Wetlands







New York State  
Freshwater Wetlands Map





Rensselaer  
County

Map 16 of 22

This map was promulgated, pursuant to Article 24 of the Environmental Conservation Law (The Freshwater Wetlands Act) on March 26, 1986 by the Commissioner of New York State Department of Environmental Conservation.

LEGEND:

-  Approximate wetland boundary
-  Upland inclusion
- AA-00 Wetland identification code

NOTES

This map indicates the approximate location of the actual boundaries of wetlands regulated according to the Freshwater Wetlands Act.

Map information other than the wetland boundaries was prepared by the New York State Department of Transportation and the United States Geological Survey. The locational information provided on the map is for reference only. Marsh symbols do not necessarily indicate the location of a regulated wetland.

Adjacent areas of the regulated wetlands are those areas within 100 feet of the boundary of the wetland. These areas are subject to regulation pursuant to the Freshwater Wetlands Act but are not delineated on this map. An adjacent area may be extended by special order of the Commissioner of the New York State Department of Environmental Conservation or the local regulatory authority.

Copies of Freshwater Wetlands Maps are available from the regional offices of the Department of Environmental Conservation. Maps are available for inspection at these



# “Unusual Local Importance” (ULI)

“...in the discretion of the commissioner...”

24-0301

“...shall **designate** if it contains any Class I characteristic [**resident habitat E/T animal; unusual abundance** or diversity for the major region]” 6 NYCRR Part 664.7 (c)(1)



shall **consider** it as ULI for one or more of the benefits [**wildlife habitat, recreation**]...**expressed local interest**” 6 NYCRR Part 664.7 (c)(2)





**Long Island**  
**2400 acres in 600 FWWs**

# Wetland Classification

**Class I – Class IV**

**Based on field visit of each wetland considering:**

**Wetland type**

**Wetland benefits**

**Distribution and location**



Photo by  
Angela George

Here in  
the Real  
World



# Wetland Maps

1,000,000

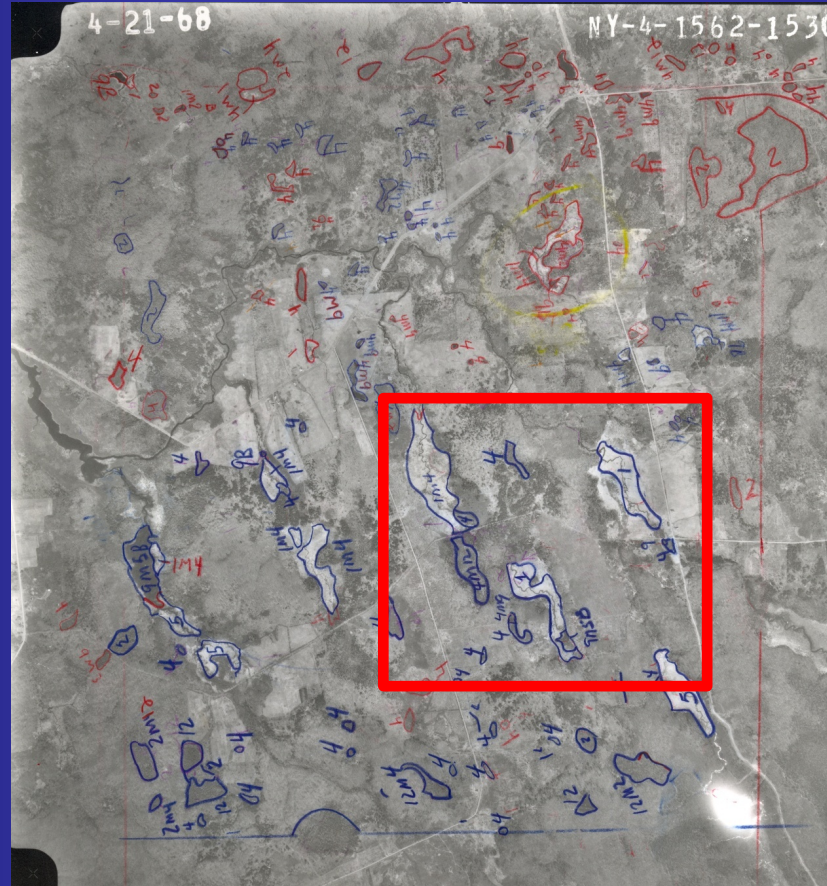
1,251,000 existing

# Original Mapping



- Old technology and old air photographs
- Very subjective
- Manually drawn lines
- Width of line alone 60-150 feet on ground

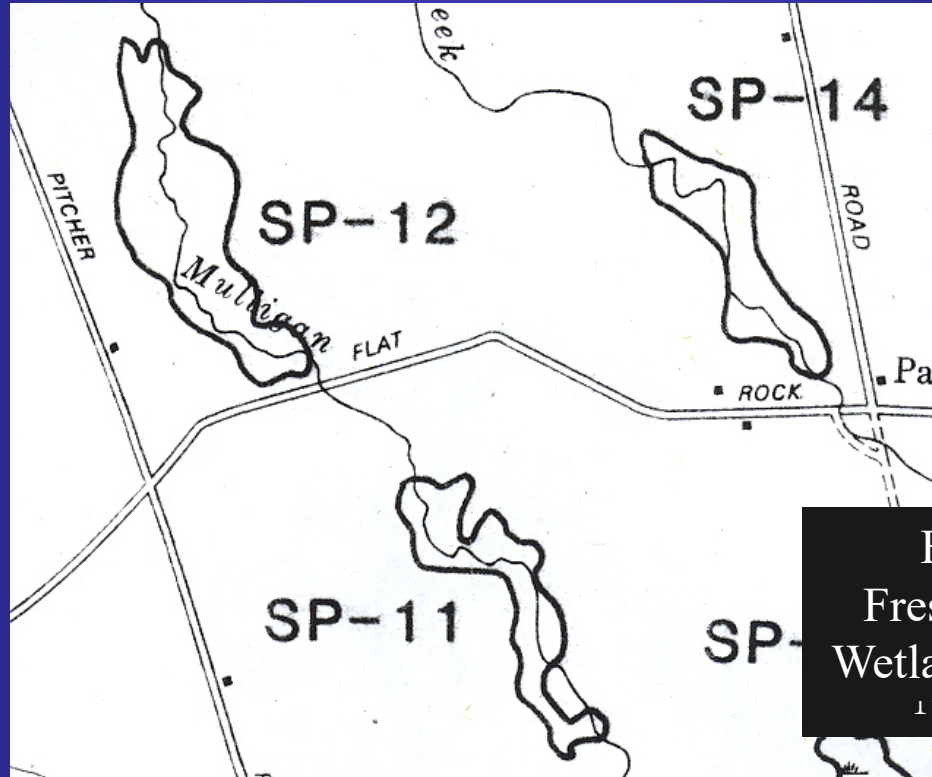
# 1960-70's Air Photos



Example:  
Lewis  
County

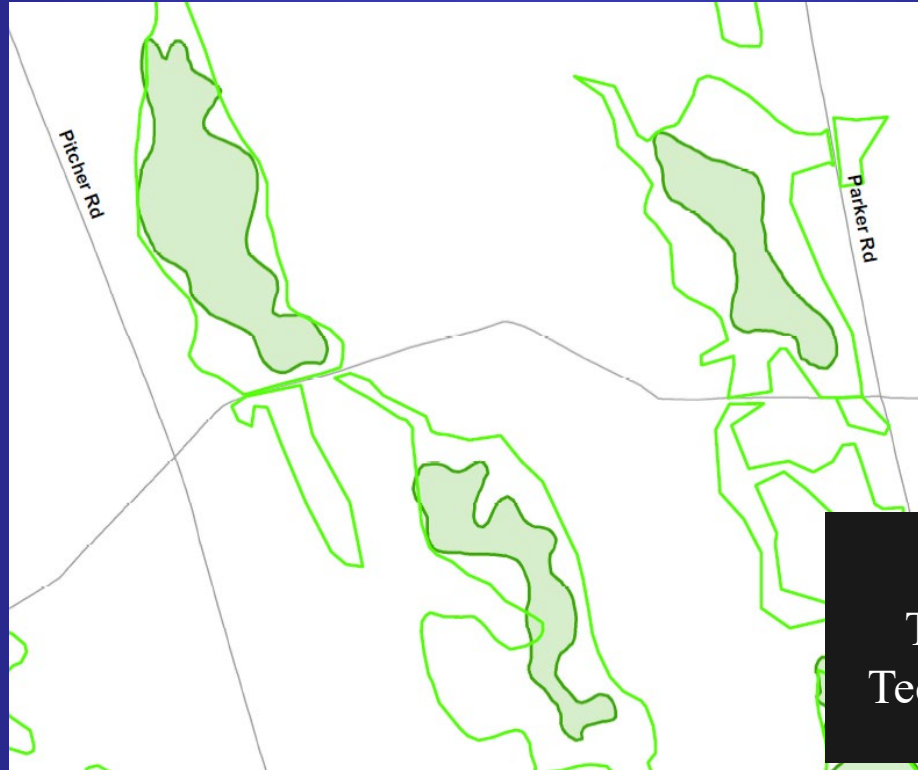


# Original Map Development



Final  
Freshwater  
Wetlands Map  
1900S

# Today's Technology



Using  
Today's  
Technology

# A Tale of Two Problems

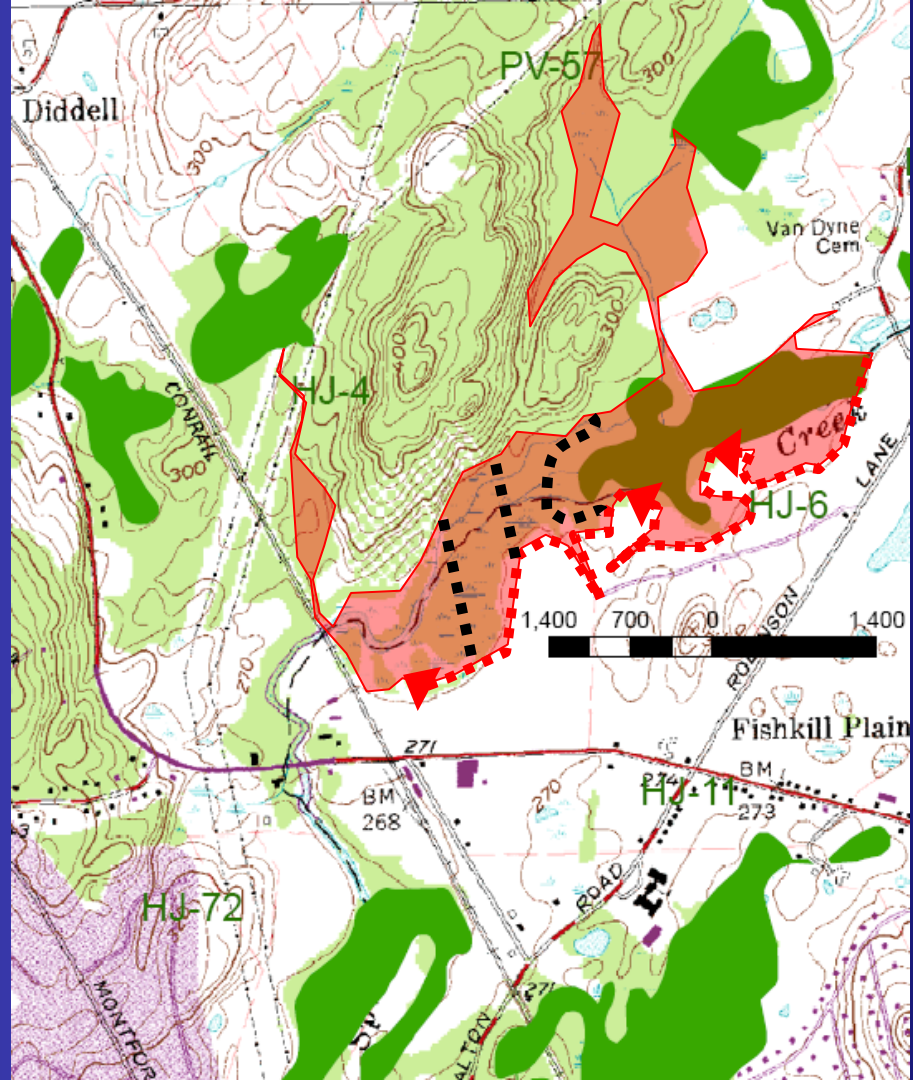
# Completely Unmapped

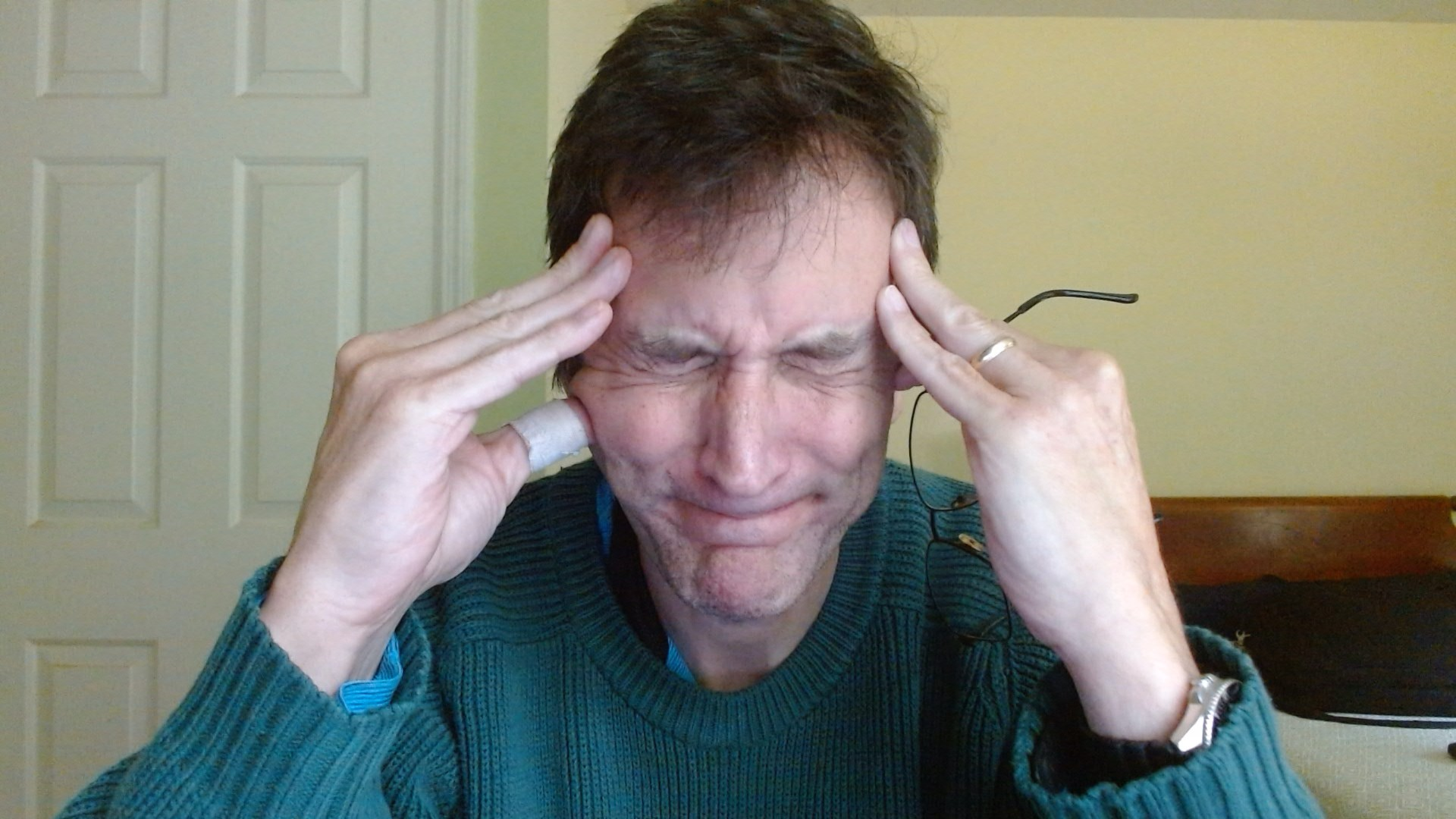
> 50 acres  
Rensselaer  
County



# Inaccurately Mapped

Dutchess  
County





# Wetland Map Amendments

U.S. Postal Service<sup>TM</sup>  
**CERTIFIED MAIL<sup>TM</sup> RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)  
For delivery information visit our website at [www.usps.com](http://www.usps.com).

**OFFICIAL USE**

Postage \$  
Certified Fee \$  
Return Receipt Fee (Endorsement Required) \$  
Restricted Delivery Fee (Endorsement Required) \$  
Total Postage & Fees \$

Postmark Here

Sent To  
Street, Apt. No.,  
or PO Box No.  
City, State, ZIP+4

PS Form 3800, August 2005

7008 1140 0002 4019 8586  
7008 1140 0002 4019 8586  
7008 1140 0002 4019 8586  
7008 1140 0002 4019 8586

PLACE TICKET IN TOP OF ENVELOPE WITH THE RIGHT SIDE OF THE RETURN ADDRESS, FOLD TO ENCLOSED LINE.

**CERTIFIED MAIL<sup>TM</sup>**

**STATE OF NEW YORK,**  
Saratoga County,  
City of Saratoga Springs.

**AFFIDAVIT OF PUBLICATION**

ss:

Notice is hereby given pursuant to Article 24 (Freshwater Wetlands Act) of the NYS ECL and 6 NYCRR Part 664 that NYSDEC proposes to amend Saratoga County Freshwater Wetland Map 19 of 28 to revise the boundary of Q-21.8.

Class 1 wetland. Maps showing the proposed revision are available at the clerk's office in the village, town and county where the change is taking place, as well as at Office 232 Golf Course Rd, Warrensburg, NY.

Written comments on the accuracy of the proposed changes to the maps may be mailed to the person listed below through March 1, 2015. No activity subject to regulation under the Freshwater Wetlands Act may be initiated without a permit from NYSDEC within the area that is the subject of the proposal (including the 100 foot wetland adjacent area).

Contact: Timothy Post,  
DEC Biologist 2, NYS  
DEC DFWMR, 625  
Broadway, Albany, NY  
12233-4756 or 518-402-  
8848.  
493423 1/29

**Brea Beck** residing in Troy, New York, being duly sworn, deposes and says that she is the Regional Legal Clerk of **21st Century Media Newspaper, LLC** a Corporation duly organized under the laws of the State of New York; that said Corporation is the publisher of **The Saratogian**, a daily newspaper published in the City of Saratoga Springs, County of Saratoga and State of New York, and that the notice of which the annexed is a printed copy, has been regularly published in **The Saratogian**

**ONCE DAILY for ONE DAY**

To wit: on the 29<sup>th</sup> day of January, 2015

Sworn to before me this 29<sup>th</sup> day of January, 2015.

*[Signature]*  
Notary Public

*[Signature]* **DEBRA A. BECK**  
Notary Public, State of New York  
01BE8072229  
Qualified in Rensselaer County 18  
Commission Expires April 01, 20

as advertised

**7,499,999.99**

**Remapping FWW in New York**

- Includes certified mail, newspaper notice, and hearings

Quantity limited; no rain checks.



207-21-0008 810043723 1-1-1.01

Prices Valid  
3/9-3/13



# Memories



Photo by Ian Wetherill  
On Unsplash

1975

1984

1992

1995

2007

2013

**“And you know that you fight  
harder for the lost causes than for  
any others”**

**Jefferson Smith**





2019

# 2019 - Governor Proposal

## Make Map Amendments Cheaper

designated as a boundary change. This bill will  
impacted by the boundary change. This bill will  
law authorizing wetland mapping notifications through standard mail and removing  
requirement of certified mailings.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because  
the notification process by certified mail is unnecessary and costly.

### Effective Date:

effect immediately.

2019

1 conservation law, all moneys required to be deposited pursuant to  
 2 sections 27-2805 and 27-2807 of the environmental conservation law, and  
 3 all other moneys credited or transferred thereto from any other fund or  
 4 source pursuant to law. All such revenue shall be initially deposited  
 5 into the environmental protection fund, for application as provided in  
 6 subdivision five of this section.

7 § 5. This act shall take effect March 1, 2020.

8 PART I

9 Intentionally Omitted

10 PART J

11 Intentionally Omitted

12 PART K

13 Intentionally Omitted

14 PART L

15 Section 1. The banking law is amended by adding a new article 14-A to  
 16 read as follows:

17 ARTICLE 14-A  
 18 STUDENT LOAN SERVICERS

19 Section 710. Definitions.

20 711. Licensing.

21 712. Application for a student loan servicer license; fees.  
 22 713. Application process to receive  
 23

of  
tal  
n



Patience, you must have

Photo by [Riku Lu](#)  
on [Unsplash](#)

## 2020 - Governor Proposal #2

# Make Maps Educational NOT Regulatory

6 the freshwater wetlands map was  
7 and four-tenths acres in size, or if less than twelve and four-tenths  
8 acres are of unusual importance; and contain any or all of the follow-  
9 ing:  
10 2. "Freshwater wetlands map" shall mean a map [promulgated] developed  
11 by the department pursuant to section 24-0301 of this article on which  
of any freshwater wetlands. These maps will

2020

21 such approval, this act shall take effect immediately; provided that the  
22 commissioner of environmental conservation shall notify the legislative  
23 bill drafting commission upon the occurrence of the enactment of section  
24 1 of part QQ of the chapter of the laws of 2020 enacting the environ-  
25 mental bond act of 2020 "restore mother nature", in order that the  
26 commission may maintain an accurate and timely effective data base of  
27 the official text of the laws of the state of New York in furtherance of  
28 effectuating the provisions of section 44 of the legislative law and  
29 section 70-b of the public officers law. Effective immediately, the  
30 addition, amendment, and/or repeal of any rule or regulation necessary  
31 for the implementation of the foregoing sections of this act are author-  
32 ized and directed to be made and completed on or before such effective  
33 date.

34 PART SS

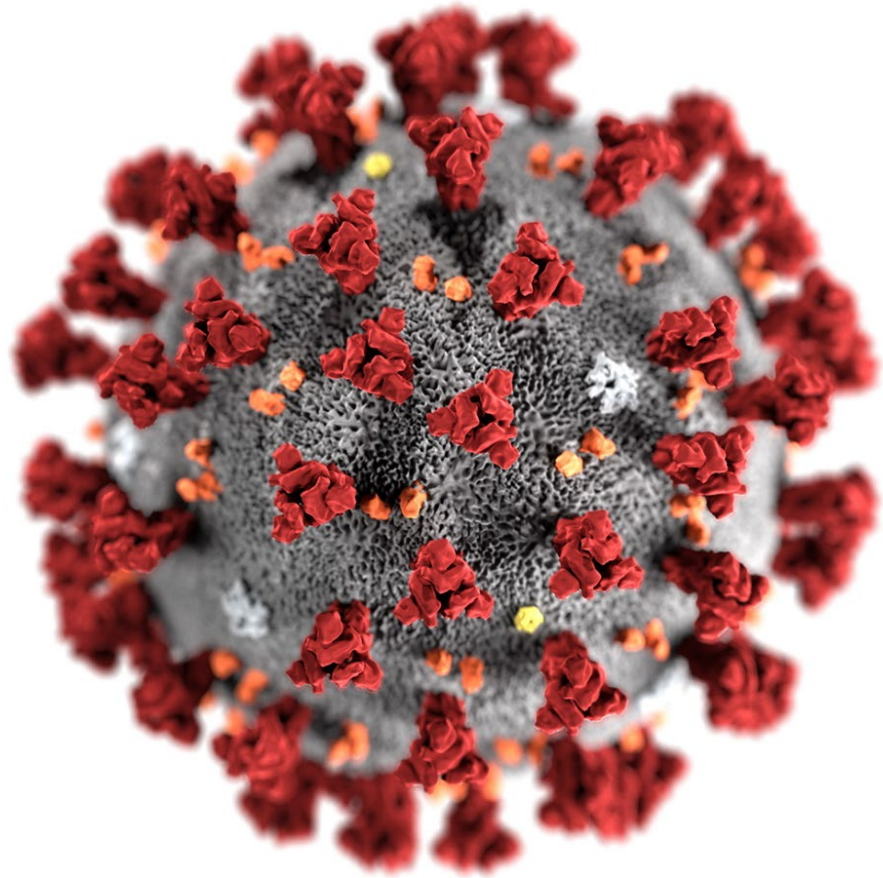
35 Intentionally Omitted

36 PART TT

37 Intentionally Omitted

38 PART III

39 Section 1. This act enacts into law components of legislation which  
40 are necessary to implement legislation relating to the Bay Park Convey-  
41 ance Project. Each component is wholly contained within a Subpart iden-  
42 tified as Subparts A through C. The effective date for each particular  
43 provision contained within such Subpart is set forth in the last section  
44 of such Subpart. Any provision in any section contained within a  
45 Subpart, including the effective date of the Subpart, which makes a  
46 reference to a section "of this act", when used in connection with that  
47 particular component, shall be deemed to mean and refer to the corre-  
48 sponding section of the Subpart in which it is found. Section three of  
49 this act sets forth the general effective date of this act.







Patience, you must have

Photo by [Riku Lu](#)  
on [Unsplash](#)

2021

## STATE OF NEW YORK

Cal. No. 979

5116--C

# Make Maps Educational NOT Regulatory

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

1 Section 1. Subdivisions 2, 3 and 7 of section 24-0105 of the environ-  
2 mental conservation law, as added by chapter 614 of the laws of 1975,  
3 subdivision 7 as renumbered by chapter 654 of the laws of 1977, are  
4 amended to read as follows:

5 2. Considerable acreage of freshwater wetlands in the state of New  
6 York has been lost, despoiled or impaired by unregulated draining,  
7 dredging, filling, excavating, building, pollution or other [~~acts~~]  
8 activities inconsistent with the natural uses of such areas. [~~Other~~  
9 freshwater] Freshwater wetlands are in jeopardy of being lost, despoiled  
10 or impaired by such [~~unrelated acts~~] activities and because of the  
11 recent curtailment of federal wetland protection

12 3. Recurrent



Department of  
Environmental  
Conservation

# Senate Bill S5116C

2021-2022 Legislative Session

Relates to freshwater wetlands; repealer

[DOWNLOAD BILL TEXT PDF](#)

SHARE THIS BILL

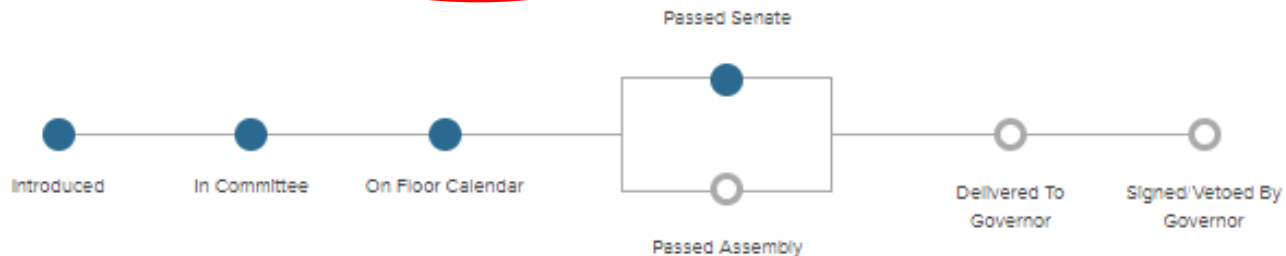


SPONSORED BY



Pete Harckham  
(D, WF) 40TH SENATE DISTRICT

CURRENT BILL STATUS - PASSED SENATE





Patience, you must have

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on [Unsplash](#)

# 2022 - Governor Proposal #3

## Make Maps Educational NOT Regulatory

2 mental conservation law, as added by chapter  
3 subdivision 7 as renumbered by chapter 654 of the laws of 1977, are  
4 amended to read as follows:  
5 2. Considerable acreage of freshwater wetlands in the state of New  
6 York has been lost, despoiled or impaired by unregulated draining,  
7 dredging, filling, excavating, building, pollution or other [acts]  
inconsistent with the natural uses of such areas. [Other



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Busing on [Unsplash](#)

# A True Collaboration

Governor's Office

Senate

(Pete Harckham)

Assembly

(Steve Englebright)

Environmental Groups

(Sierra Club & Audubon NY)

DEC

Other Stakeholders

The  
Article 24  
Dream

# Senate Bill S8008C

SIGNED BY GOVERNOR

Enacts into law major components of legislation necessary to implement the state transportation, economic development and environmental conservation budget for the 2022-2023 state fiscal year

[DOWNLOAD BILL TEXT PDF](#)

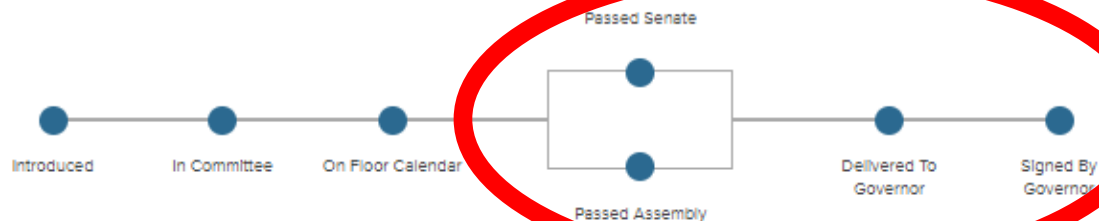
SHARE THIS BILL



SPONSORED BY

There are no sponsors of this bill.

CURRENT BILL STATUS - SIGNED BY GOVERNOR















# Major Provisions Part QQ

# 2025

**Regulatory Maps Are Gone  
Informational Maps – No Connection with  
Extent of Regulation**

New York State  
Freshwater Wetlands Map

Rensselaer  
County  
Map

The map was promulgated, pursuant to Section 24 of the Environmental Conservation Law (The Freshwater Wetlands Act) on March 26, 1986, by the Commissioner of New York State Department of Environmental Conservation.

LEGEND:

- Approximate wetland boundary
- ∩ Upland inclusion
- AA-00 Wetland identification code

NOTES

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Adjacent unregulated wetlands are those areas within the boundary of the wetland that are not subject to regulation pursuant to the Freshwater Wetlands Act but are not delineated on this map. An adjacent area may be extended by special order of the Commissioner of the New York State Department of Environmental Conservation or the local regulatory authority.

# Acreage Threshold

A landscape photograph of a wetland area. In the foreground, there are clumps of green grass growing in shallow water. A calm pond reflects the sky and the surrounding trees. The background features a line of trees and distant hills under a grey, overcast sky.

Maintain default 12.4 acre threshold until 2028

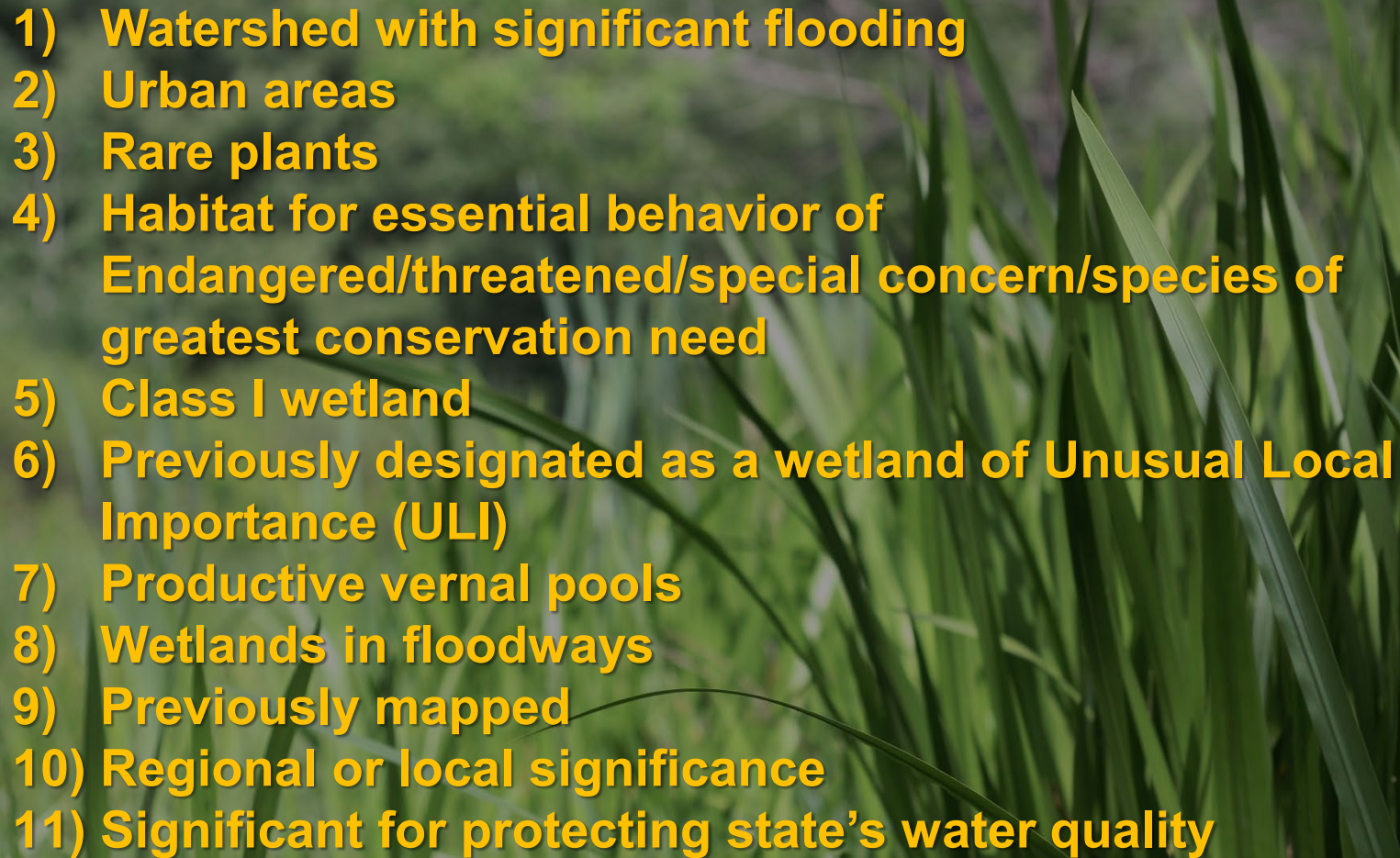
Default threshold decreases to 7.4 acres in 2028

# Smaller Wetlands

**“Unusual Importance”** shall mean a freshwater wetland, regardless of size, that possesses one or more of the following characteristics as determined by the department pursuant to regulations:

24-0107(9)



- 
- 1) Watershed with significant flooding**
  - 2) Urban areas**
  - 3) Rare plants**
  - 4) Habitat for essential behavior of Endangered/threatened/special concern/species of greatest conservation need**
  - 5) Class I wetland**
  - 6) Previously designated as a wetland of Unusual Local Importance (ULI)**
  - 7) Productive vernal pools**
  - 8) Wetlands in floodways**
  - 9) Previously mapped**
  - 10) Regional or local significance**
  - 11) Significant for protecting state's water quality**

# Other Major Provisions (2025)

**90 day deadline for jurisdictional determinations**

**5 year hold on delineations and jurisdictional determinations**

**DEC must produce informational wetlands maps from various sources**

**DEC must post educational materials on website**

# Application Fees (2023)

Application fees to Conservation Fund with no fees for state agencies

Increased application fees Article 24:

\$100 for permit modification (currently \$50)

\$300 for new SFD (currently \$50)

\$500 for new multi-family dwelling (currently \$100)

\$1000 for new commercial/industrial structures (currently \$100)

\$100 for everything else (currently \$100)

# Enforcement (2020)

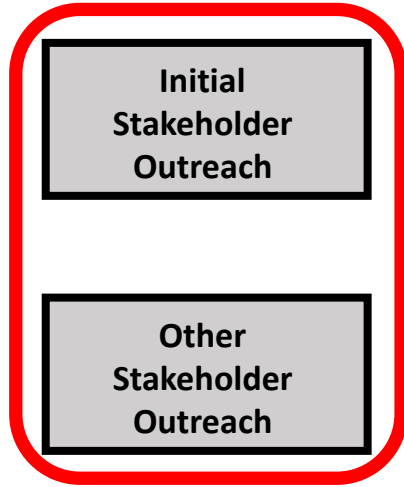
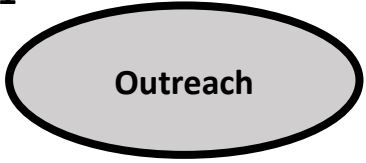
**Civil penalties assessed per day**  
**Criminal cases can seek penalties and restoration**  
**Cease and desist power for significant violations**



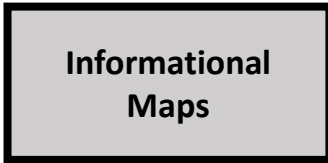
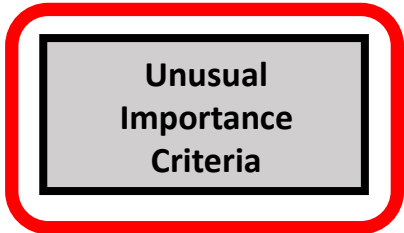
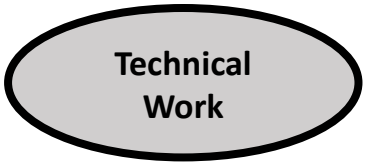
Photo by Zack Silver  
on Unsplash

**A Path Forward**

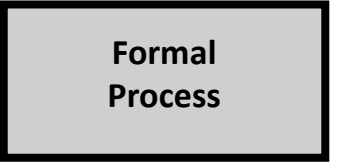
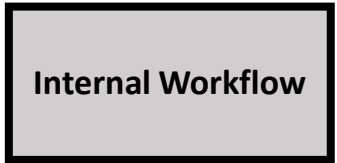
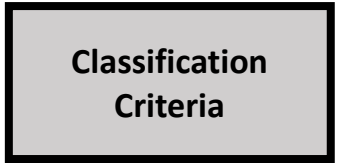
**Step 1**



**Step 2**

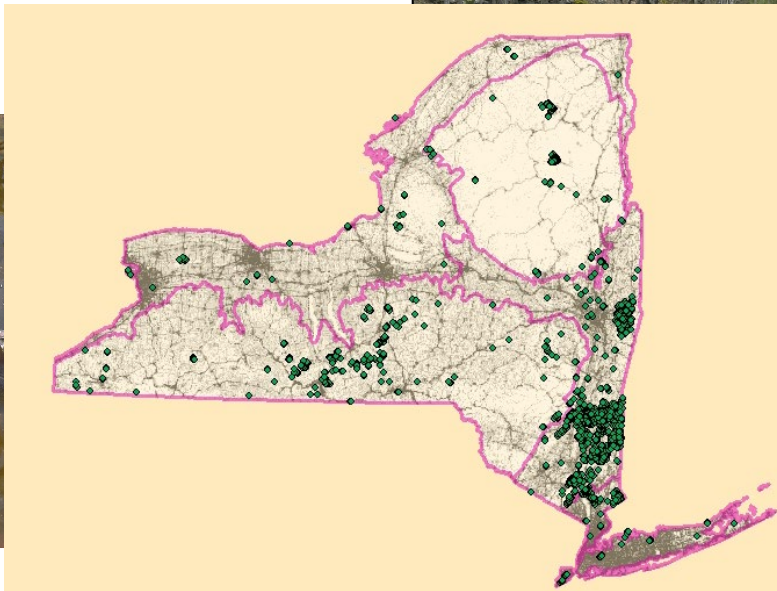
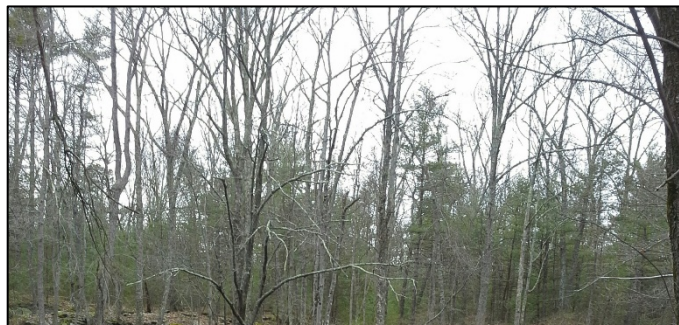


**Step 3**

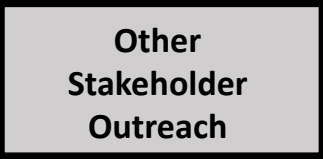


## Example - Vernal Pools

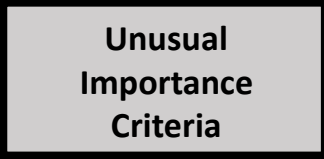
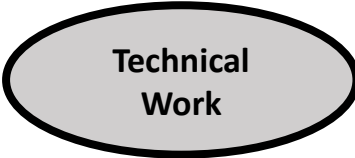
It is a vernal pool that is known to be productive for amphibian breeding;



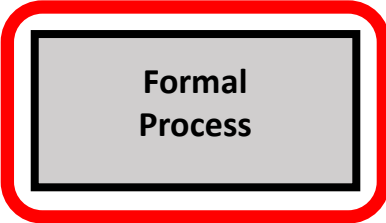
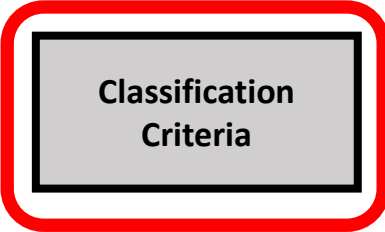
**Step 1**



**Step 2**



**Step 3**





# Timeline

Outreach

Unusual Importance

Classification

Mapping

Rulemaking

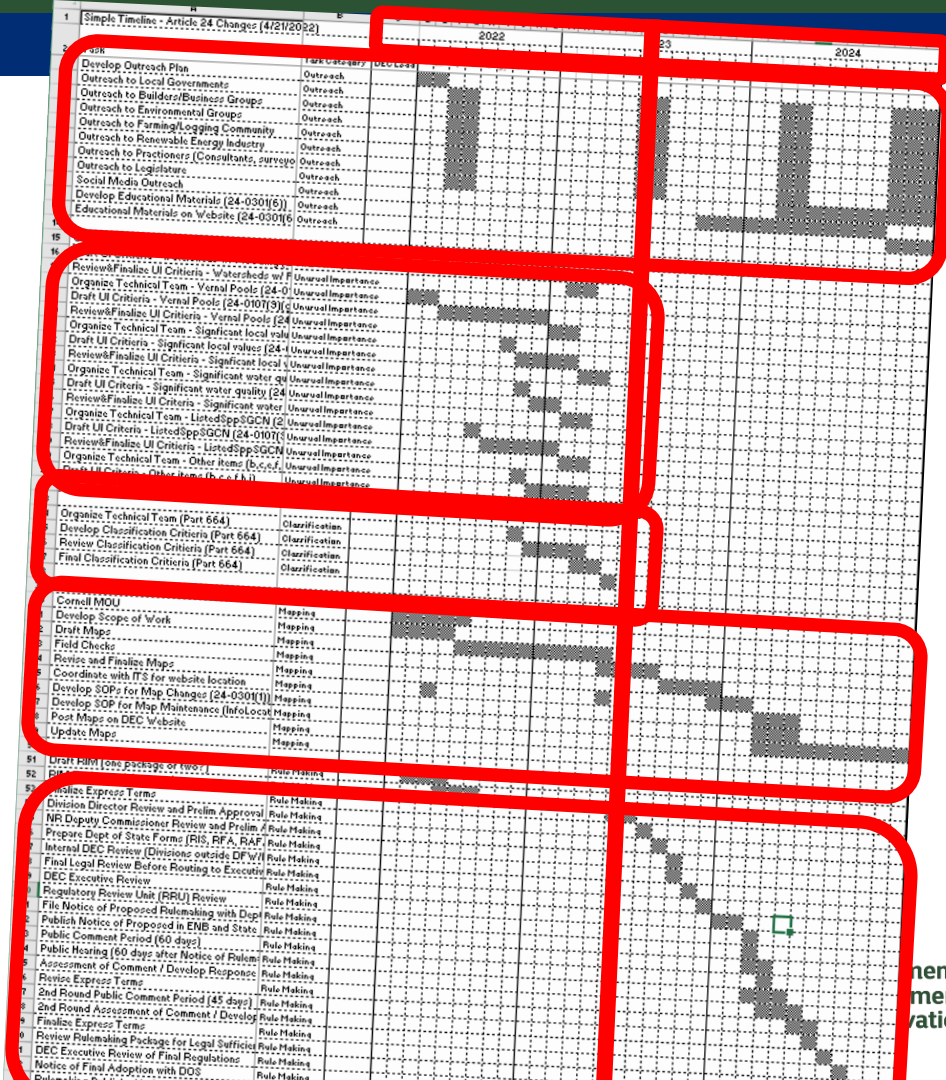


Photo by Neil Thomas  
On Unsplash



**Opportunities to Help**

# Thoughts/Concerns



Photo by Sage Friedman  
On Unsplash

[roy.jacobson@dec.ny.gov](mailto:roy.jacobson@dec.ny.gov)

# Thank You

**Roy “JR” Jacobson**

**Head, Habitat Protection Section  
Albany, NY**

**[roy.jacobson@dec.ny.gov](mailto:roy.jacobson@dec.ny.gov)**

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