

### A.1424 (Simon)/ S.5013 (Parker)

**Title:** An act to amend the environmental conservation law, in relation to granting private citizens the right to initiate civil enforcement actions for violations of such law

**Purpose:** To grant private citizens broad authorization to commence civil judicial actions under certain titles of the Environmental Conservation Law (ECL).

**Statement of Support:** With the pull back of EPA and the Army Corps of Engineers from some of their regulatory and enforcement work in New York, our state environmental agencies are being asked to do more with less in the void created by Trump's regressive policies. If we add the new responsibility of administering the Climate Leadership and Community Protection Act, the new plastic bag ban, the mandate to recycle food waste and organics, the phase out of PFAS, 1,4 dioxane, and chlorpyrifos, paint stewardship laws, and more, it's clear that DEC will require more staffing and funding. Over the past 9 years of New York's economic recovery from the last recession, the Department of Environmental Conservation (DEC) has shouldered disproportionate cuts to staffing and funding when compared with other agencies that saw mere reductions to their rate of growth. We have lost nearly a quarter of the DEC's workforce since the 1990s which has meant fewer enforcement actions of polluters, increased spread of invasive species and less review of impending threats to our environment. Simply put - there is little left to cut from this bare-bones agency that is increasingly asked to do more.

In the past few years, as a result of these significant cuts to funding and FTE staffing levels, the DEC has implemented programs for both public and private generators of pollution to conduct self-audits for environmental safety regulation compliance, presumably as a means to reduce staff obligations. These programs relax DEC oversight by allowing participating entities to reduce or avoid fines by conducting self-audits and reporting non-compliance violations within 30 days of their discovery and correcting the violation within 60 days of the violations disclosure. Enrolling in the self-audit program allows the company to additionally benefit by being placed as a "low priority" site for inspection. But we are finding that there is a rash of false reporting and limited capacity for DEC to actually verify compliance.

Meanwhile, regressive court decisions have dramatically limited how much recourse the public has if they want to challenge violations to environmental laws or regulations. Restrictive standing requirements have essentially barred the public

from the courthouse doors in SEQRA proceedings while an anemic DEC allows polluters to define the terms of their own enforcement. (see: SEQRA Standing A.7971 (O'Donnell)/S.7548 (Kavanagh))

Enactment of **A.1424/S.5013** will provide a level playing field for the public to reasonably enforce clear violations of environmental laws that threaten the health and safety of our communities. If the State budget process cannot find ways to adequately staff the DEC – and enforcement is left to the violators themselves - then the legislature must empower and enable the citizens of New York to fill the void.

**A.1424/S.5013** will provide responsible New Yorkers standing to bring citizens suits against a polluting entity simply by demonstrating an environmental harm has been committed.

**Sierra Club Atlantic Chapter Strongly Urges Your Support of A.1424/S.5013**