



ENVIRONMENTAL  
ADVOCATES OF NEW YORK

YOUR GOVERNMENT WATCHDOG

## Testimony Regarding the Environmental Provisions of Governor Cuomo's Executive Budget Proposal for SFY 2018-2019

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Since it does not appear that either the President or Congressional leaders share the values that New Yorkers place on safeguards that prevent people from getting sick or dying prematurely, that ensure our air is safe to breathe, our waters swimmable and drinkable, and that keep our land free of pollution, states have an obligation to lead.

The nation needs New York to return to being a **true** environmental leader; to show the pathway forward where environmental protection once again unleashes the innovation and entrepreneurial spirit that New York is known for.

Governor Cuomo's *State of the State* address led most to conclude that that we'd see a SFY 2018-19 Executive Budget Proposal that took us well past the status quo. We'd see a budget that was more than a no cuts approach, had an increase in agency staff, and contained a raft of new programs to protect against the federal cuts. Instead, the Governor proposed a budget that largely maintains the status quo and, thus, misses the mark for what this moment in our nation's history calls of states like New York.

Our recommendations for modifying the budget and moving New York forward to be the environmental leader this nation needs are as follows:

***Federal Budget Cuts to State Environmental and Health Programs:*** President Trump has proposed a 26% reduction to the budget of the U.S. Environmental Protection Agency (EPA). The cuts will have a dramatic impact on the EPA's ability to keep our air, water and climate safe. The cuts will impact the health of New Yorkers and science is clear that some of those who get sick from breathing in more air pollution will die prematurely.

Additionally, the cuts to EPA will impact that grants that New York receives from the EPA to fund water quality testing, air quality monitoring and estuary and habit management among other programs. In SFY 2016-2017, the state received in excess of \$100 million to support many

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agencies including the Department of Environmental Conservation (DEC) and the Department of Health (DOH). If the federal budget cuts water quality revolving loan funding, the impacts to New York could be greater than \$270 million (full chart at the end of this testimony). ***The administration should provide a list of programs and the number of staff that could be eliminated if the EPA's budget is cut.***

***Decongesting New York City Streets:*** While the Governor has talked quite a bit about the pressing needs to address the New York City mass transit crisis and traffic congestion, his budget proposal (including the 30-day amendments) fell short of a comprehensive plan for and a sustained funding stream to fix mass transit. The Governor proposed modifications to New York City's role in support of the subways that include a forced payment scheme and a change in property tax receipts for space near transit lines. Mayor de Blasio objected to the Governor's proposals.

The FixNYC panel issued recommendations on January 19, 2018 about how to establish a long-term plan for supporting the NYC metro mass transit system that includes three phases, the last of which is a fee to be charged for travel into Manhattan's Central Business District (CBD). The panel did not recommend tolling the east river crossings.

As part of 30-day amendments, the Executive proposed measures to authorize portions of the FixNYC plan recommendations. Those amendments seek to: authorize a demonstration program for red light cameras for enforcement of existing vehicle and traffic laws in NYC and to empower the FixNYC advisory panel to make recommendations regarding equipment needed to possibly establish a surcharge on trips by for-hire vehicles in the Manhattan CBD, the issuance of parking placards and examining bus and motor vehicle carriers operating in the CBD. ***We call on the Legislature to adopt policies that set fees on vehicles entering the CBD and ensure the revenue collected supports the MTA. The SFY 2018-19 budget must contain an agreement on a long-term and statewide mass transit support strategy.***

***Environmental Protection Fund (EPF):*** The Governor has proposed a \$300 million authorization for this year's fund. However, the financial plan does not have the full amount of cash to back it. That's not new, but it's a concern because the gap is in excess of \$50 million. The Governor proposes additional off-loads of agency operations to the EPF capital program. Along with last year's navigation law program, these off-loads should be removed from the EPF. ***We strongly urge the Legislature to enact a fee on plastic take-out bags and use the revenue generated to support the EPF. We urge the Legislature to develop a sound EPF financing plan.***

***Plastic bags:*** On Saturday, January 13, 2018, the Cuomo administration released a report from its plastic bag task force (convened in February of 2017 as an outgrowth of the law he signed to nullify New York City's program). The task force offered up a range of policy options, but the Governor did not choose one for his Executive Budget released just three days later. This is a

failure to address what his administration has labeled a “scourge” on New York’s environment. *Since the Governor failed to live up to his promise of a statewide solution, we call on the Legislature to adopt a bag ban/fee proposal. A good starting point is A.46, the bi-partisan “Pennies for Parks” legislation from Assemblyman Cahill. In addition, a bill (S.7760) was recently introduced that utilizes a hybrid bag ban/fee approach that will similarly direct bag revenue to public benefit.*

**Climate Change:** In the months leading up to the release of the Executive Budget, the [NY Renews Coalition](#) met with the Governor’s office a number of times requesting the Governor consider including all or core elements of the Climate and Community Protection Act and a climate pollution pricing scheme in his budget proposal. Though Governor Cuomo would like New York to be considered a climate leader, his budget proposal did not contain the type of comprehensive climate and energy policy that other states have embraced. *The Legislature should act on climate and include the bi-partisan Climate and Community Protection Act (A.8270-A / S.6617-A) as a component of the SFY 2018-19 budget.*

**Regional Greenhouse Gas Initiative (RGGI):** For the fourth straight year, the Governor has proposed transferring \$23 million in RGGI funds to the General Fund to cover costs associated with certain energy related tax credits. This comes at a time when the RGGI operating budget is running deep deficits, so much so that NYSERDA has had to recently adopt a three-year austerity plan that significantly scales back the number of RGGI supported programs in order to bring the budget back into balance by 2021.

Almost all of the tax credits that are supported by the Executive’s RGGI raid pre-date the program’s existence. The one that draws the single biggest amount dates to the first term of the Pataki Administration.

| Incentive   | Statutory Provision   | Enacting Legislation | Amount Raided from RGGI in SFY 15-16 (\$ millions) |
|---|-----------------------|----------------------|--|
| Biofuel Production Tax Credit                                     | NY Tax Law § 28*2     | L.2006 ch. 62        | 3  |
| Clean Heating Fuel Credit   | NY Tax Law § 606(mm)  | L.2006 ch. 35        | 3  |
| Alternative Fuels and Electric Vehicle Recharging Property Credit | NY Tax Law § 187-b    | L.2006 ch. 109       | 1  |
| Green Buildings Credit  | NY Tax Law § 19       | L.2000 ch. 63        | 1  |
| Sales Tax Exemption for Residential Solar Energy Systems          | NY Tax Law § 1115(ee) | L.2005 ch. 306       | 1  |
| Sales Use Tax Exemption for Commercial Solar Energy Systems       | NY Tax Law § 1115(ii) | L.2012 ch. 406       | 1  |

|  |                       |                |           |
|--|-----------------------|----------------|-----------|
| Residential Solar Energy System Personal Income Tax Credit | NY Tax Law § 606(g-1) | L.1997 ch. 399 | 13        |
|  |                       |                | <b>23</b> |

According to NYSERDA (<https://www.nyserdera.ny.gov/-/media/Files/EE/RGGI/2017-RGGI-Operating-Plan.pdf>):

Historically the investment of RGGI auction proceeds has been designed to complement existing programs, including the System Benefits Charge (SBC), Renewable Portfolio Standard (RPS), Weatherization Assistance Program, Energy Efficiency Portfolio Standard (EEPS), and various transportation programs funded by the federal Congestion Mitigation and Air Quality Improvement Program.

Diversion of funds out of RGGI to support long-standing tax credits runs counter to the value of these resources supplementing existing programs and lowers the total amount of funding the state should be spending to move us toward our climate and clean energy goals. Moreover, tax credits offer little to no direct benefit to the lower income and environmental justice communities that are disproportionately burdened by the impacts of climate change and fossil fuel derived pollution. ***New Yorkers would be better served if these funds are repurposed to provide communities on the front lines of climate change with access to energy efficiency opportunities that are not currently being provided by NYSERDA.***

***Tax Credit Deferrals:*** In an effort to close the budget deficit, the Governor has proposed a number of revenue enhancement schemes, including a three-year deferral of payment for a number of business and personal income tax credits (Part S of the Revenue Article VII). The deferral would apply to taxpayers eligible to use or claim refunds over \$2 million worth of the identified credits. Included on the list of deferrals are credits for electric vehicle charging infrastructure, green buildings, brownfield remediation, and brownfield redevelopment. ***The Executive’s proposal will chill markets for investments in brownfield reclamation projects, the installation of electric vehicle charging stations in workplaces, and other green projects. Also, the deferrals will create “balloon payments” that will come due in the future which could put huge pressure on future budgets if the economy takes a serious down-turn. The Legislature should reject these deferrals.***

***Water Infrastructure:*** Aging, crumbling wastewater infrastructure is a pervasive problem in New York. DEC has reported that, statewide, there is a wastewater infrastructure investment need over the next 20 years of at least \$36 billion. These resources support vital multi-million dollar fishing and tourism industries, serve as a means of conveying goods across the state and the country, provide millions of New Yorkers with clean, fresh, drinking water, and provide opportunities to swim, play, and relax.

Over time the Legislature and the Executive developed the Water Infrastructure Improvement

Act. We are pleased that New York now has a five-year \$2.5 billion Clean Water Infrastructure Act, which includes \$1 billion for grant funding to support fixing our aging pipes that we rely on to provide safe drinking water and prevent sewage discharges. But this level of funding is not sufficient to address existing needs. Without properly investing in water infrastructure, our clean water is at risk. ***New York urgently needs to make substantial investments in water infrastructure across the state, and we urge the Legislature to make that a priority in the 2018-2019 budget, by moving the grant program to be at the \$ 800M level for this year and next.***

***Hoosick Falls:*** It has been more than two years since Hoosick Falls learned of their water contamination, yet they still do not have a new water source. While the community does have a filtration system, residents live in fear that the filtration system could fail, and the community will be unable to escape the stigma of polluted water until they have a new, clean water source. This should be easily doable given the \$100 million funding line within the Clean Water Infrastructure Act for water infrastructure projects that may not ordinarily qualify for state aid. Governor Cuomo stated in his 14<sup>th</sup> proposal of the State of the State regarding the Grumman Plume "protecting the health and safety of New Yorkers is our top priority, and we will not wait for polluters to play the blame game with the drinking water of millions of Long Islanders." The same approach should be applied to Hoosick Falls and other communities in similar situations. ***The 2018-2019 budget should provide \$25 million from the Clean Water Infrastructure Act for Hoosick Falls to hook up to a new, clean water source as soon as possible.***

***Land Preservation Tax Benefits:*** To incentivize good forest practices and reduce carbon in the atmosphere, the Governor has proposed the Empire Forests for the Future Initiative (Part Z of the TED Article VII). This initiative changes the Real Property Tax Law (RPTL) 480-a, creates RPTL 480-b, and creates the Community Forest Grant Program and Empire Forest Incentive Program. These changes are designed to incentivize good forestry management practices, preserve more acres of land, and prevent subdivisions and development in sensitive lands in the State. Environmental Advocates of New York supports the Empire Forests for the Future Initiative; however, we suggest that, ***the Governor's proposal should be modified to ensure that forest management for carbon sequestration and water quality protection would qualify for the program, and to explicitly exclude incentives for biomass.***

***Additionally, outside of the budget process, we urge the Governor and the Legislature to address the longstanding issue of clearcutting in the Adirondack park.***

***Clean Energy:*** The Executive Budget contains Article VII language that would permit the New York Power Authority to grow its footprint in the renewable energy sector (Part GG of the TED Article VII). The bill authorizes NYPA to finance, own, construct and operate renewable generating facilities in order to help meet the targets established in the Clean Energy Standard. ***We urge the Legislature to support the Governor's proposal and to use this effort as a springboard to discussion that would envision NYPA playing a role in creating locally controlled energy systems.***

**Renewable Energy for Empire State Plaza:** The Office of General Services (OGS) and the Power Authority of New York State (PASNY) are teaming up to modernize the energy system that powers the State Capitol and the Empire State Plaza. The initial proposal was to replace aging diesel generators with natural gas. This is short sighted given the State Energy Plan (2015) goal for an entire state economy off of fossil fuels by 2050. It also seems out of step with the Governor's call for the the state pension fund to divest of fossil fuel holdings. Though PASNY has announced the project process will now include a review of renewable energy options, we believe that state law might constrain OGS from spending money on renewables energy sources. ***We call on the Legislature to modify the proposed executive budget to allow OGS to spend previously appropriated funds for renewables and to prohibit the funds for fossil fuels. Specifically we ask for amendments to the Capital Projects Appropriation Bill (A.9504A/S.7504A), pages 328-329 (pasted below). The energy supply for the central nervous system of state government should be 100% clean, renewable power, not dirty and dangerous fossil fuels.***

For services and expenses related to the design and construction on 44 Sheridan Avenue in Albany of a cogeneration plant and microgrid, to operate on natural gas and/or fuel oil number two, including payment 2 of liabilities incurred prior to April 1, 2017 (05CG1705) ..... 3 87,600,000 ..... (re. \$87,600,000)

**Food waste recovery:** For the second year in a row, the Governor has included the Food Recovery and Recycling Act in the Executive Budget (Part BB of the TED Article VII). The legislation targets large producers of food waste like supermarkets, restaurants, hotels, higher education institutions, schools and hospitals. ***We support this proposal and hope the Governor makes it a priority in discussions with the Legislature this year.***

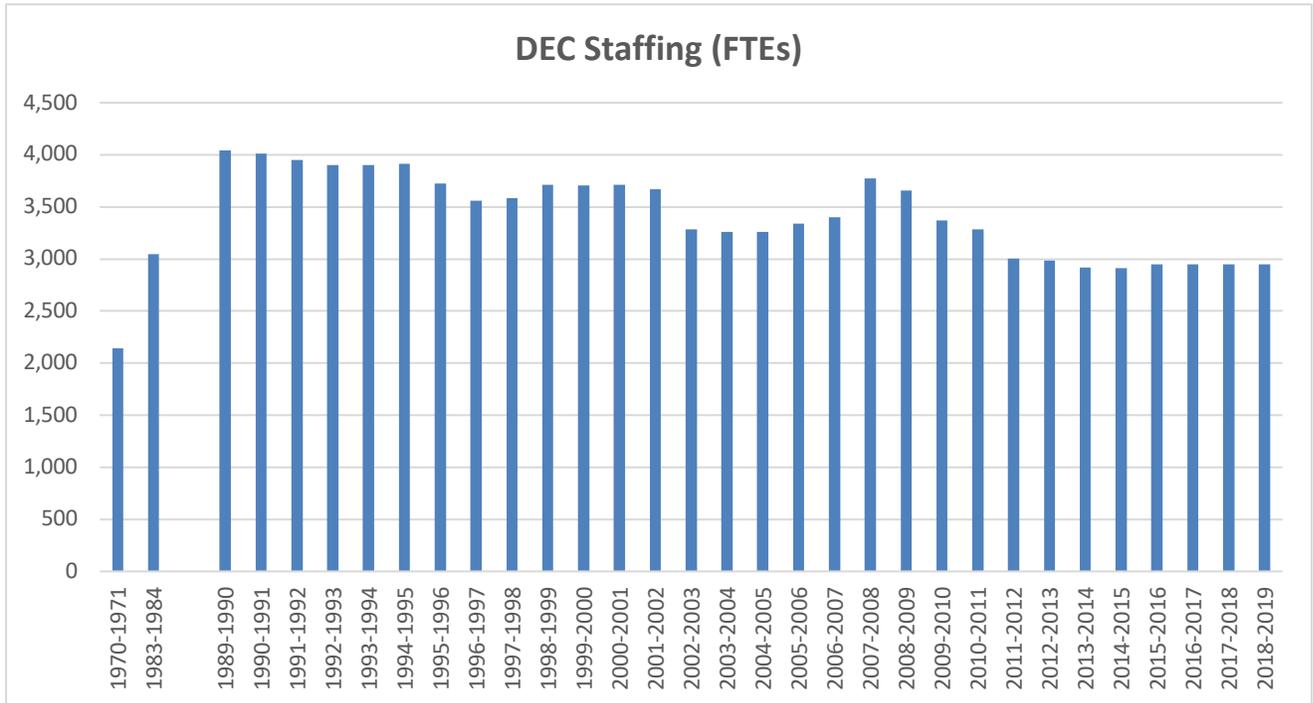
**DEC staffing:** The FY 2018-2019 budget should restore Department of Environmental Conservation (DEC) staff levels to address the losses sustained at the agency during the recession. Too many laws passed by, and with the support of, legislators in this room are being inadequately implemented and enforced for one simple reason: there aren't enough cops on the beat.

DEC staff members do the best they can with the resources they have. DEC has not recovered the 800-staff lost during the recession deficit reduction budgets; forcing the agency to choose between increasingly poor options as it struggles to carry out its mission to protect our health and the environment, leaving New Yorkers vulnerable to harmful pollution.

Governor Cuomo's administration has rationalized these cuts as "doing more with less." Protecting public health and holding polluters accountable needs real people on the ground.

This problem will only worsen if the proposed cuts to the U.S. Environmental Protection Agency come to fruition. If the President has his way, grants from EPA that are directed to the DEC and the Department of Health for key environmental programs will be cut. By calling for relatively

flat agency budgets and staffing, Governor Cuomo is locking in de facto budget cuts and putting agencies in jeopardy given the proposals currently being debated in Washington, D.C.



**No More DERA Delays:** The proposed Executive Budget does not include any further delay of implementing the Diesel Emissions Reduction Act of 2006. This law is more than a decade old and has never been fully implemented.

The Legislature should reject any notion of further delaying the law through this year’s budget process. Emissions from aging, dirty heavy-duty diesel engines are incredibly harmful, causing heart and asthma attacks, leading to premature deaths, and cost New Yorkers over \$12 billion annually in monetized health impacts.

When enacted, DERA was roundly praised as a tool in New York’s fight against air pollution and a boon to the Upstate manufacturing industry, yet the enacted state budget has delayed its implementation for the past five years. Further delays put the public in harm’s way and are unacceptable.

Let the law you passed be fully implemented this year.

**Centers of Excellence in Children’s Environmental Health:** Children’s health has changed for the better. Thanks to public health innovations, infectious diseases are no longer the primary cause of morbidity and mortality. But, today’s children are afflicted with chronic diseases that start in childhood (and often evolve into adulthood) with debilitating effects on not just the children themselves, but their families and communities. Environmental factors play a dominant role. The cost of environmental disease in New York State is over \$6 billion per year. The

Centers of Excellence in Children’s Environmental Health are a statewide network of health professionals and institutions whose mission is to provide cost effective interventions to children, families and communities, and offer much-needed expertise on environmental illnesses to physicians across the state who are largely untrained in this area. This network is an important and invaluable resource for New York and it is great news after failing to fund the Centers last year, the Governor’s proposed EPF provides \$2M to support these centers in his proposal.

**EPA Grants to New York State**

|  | <b>SFY 16-17 Receipts</b> |
|--|---------------------------|
| <b>Adirondack Park Agency</b>  | <b>(12,437.09)</b>        |
| Regional Wetland Program Development Grants  | (12,437.09)               |
|  |                           |
| <b>Department of Environmental Conservation</b>  | <b>(213,393,222.91)</b>   |
| Air Pollution Control Program Support  | (8,220,139.29)            |
| Surveys, Studies, Research, Investigations, Demonstrations, and Special Purpose Activities Relating to the Clean Air Act | (1,253,189.70)            |
| State Clean Diesel Grant Program   | (81,459.70)               |
| Water Quality Management Planning  | (2,456,978.78)            |
| National Estuary Program   | 71,463.37                 |
| Capitalization Grants for Clean Water State Revolving Funds  | (148,187,596.00)          |
| Regional Wetland Program Development Grants  | (4,904.23)                |
| Chesapeake Bay Program   | (1,198,111.77)            |
| Great Lakes Program  | (1,642,345.76)            |
| Lake Champlain Basin Program   | (547,759.28)              |
| Disaster Relief Appropriations Act (DRAA) Hurricane Sandy Capitalization Grants For Clean Water State Revolving Funds    | (9,301,535.36)            |
| Performance Partnership Grants   | (28,644,032.42)           |
| Environmental Information Exchange Network Grant Program and Related Assistance  | (93,720.41)               |

|   |                        |
|---|------------------------|
| Consolidated Pesticide Enforcement Cooperative Agreements   | (574,180.00)           |
| Pollution Prevention Grants Program   | (117,944.91)           |
| Hazardous Waste Management State Program Support  | (5,612,500.79)         |
| Superfund State, Political Subdivision, and Indian Tribe Site-Specific Cooperative Agreements                                   | (343,243.69)           |
| Underground Storage Tank Prevention, Detection and Compliance Program   | (703,496.21)           |
| Leaking Underground Storage Tank Trust Fund Corrective Action Program   | (2,597,362.00)         |
| State and Tribal Response Program Grants  | (602,409.00)           |
| Disaster Relief Appropriations Act (DRAA) Hurricane Sandy Leaking Underground Storage Tank Trust Fund Corrective Action Program | (1,281,776.98)         |
|   |                        |
| <b>Department of Health</b>   | <b>(56,851,939.34)</b> |
| State Indoor Radon Grants   | (258,822.63)           |
| State Public Water System Supervision   | (3,526,175.72)         |
| Capitalization Grants for Drinking Water State Revolving Funds  | (52,720,525.37)        |
| Beach Monitoring and Notification Program Implementation Grants   | (346,415.62)           |
|   |                        |
| <b>Department of Labor</b>  | <b>(158,454.46)</b>    |
| Toxic Substances Compliance Monitoring Cooperative Agreements   | (158,454.46)           |
|   |                        |
| <b>Office of Parks</b>  | <b>(213,683.96)</b>    |
| Great Lakes Program   | (213,683.96)           |
|   |                        |

|  |                         |  |
|--|-------------------------|--|
| <b>Office of the State Comptroller</b> | <b>(30,000.00)</b>      |  |
| Air Pollution Control Program Support  | (30,000.00)             |  |
| <b>Grand Total</b>                     | <b>(270,659,737.76)</b> |  |

\* \* \*

Thank you for the opportunity to testify today. We look forward to working with the Legislature to advance a budget that is protective of New Yorkers health and the environment.

*Environmental Advocates' mission is to protect our air, land, water, wildlife, and the health of all New Yorkers. Based in Albany, we monitor state government, evaluate proposed laws, and champion policies and practices that will ensure the responsible stewardship of our shared environment. We support and strengthen the efforts of New York's environmental community and work collaboratively to make our state a national environmental leader.*