

GREEN MEMOS TO THE GOVERNOR & THE STATE LEGISLATURE

*Advice from New York State's **Environmental** Organizations*



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INTRODUCTION

Governor Andrew Cuomo has inherited significant environmental challenges, including an unforgiving funding climate, overburdened state regulatory agencies, a pressing need to determine how best to protect the state from the potential dangers of natural gas exploration, and uncertainty about how to reduce energy use and the pollution that causes global warming.

In his public statements, the Governor appears to recognize that every one of the state's environmental challenges also represents an economic opportunity, and he has inherited the perfect platform to make New York a national leader by responsibly addressing current high-profile threats to our air, land and water while bolstering economic development.

New York State's environmental challenges are significant and any proposed solutions must be smart and comprehensive.

- The Department of Environmental Conservation and the Office of Parks, Recreation and Historic Preservation have both been diminished by deep staff cuts and layoffs over the last few years and are in need of rescue.
- The Governor has also inherited the ghosts of budgets past. Years of poor decision-making have left New York's Environmental Protection Fund long on commitments but short on resources to meet its obligations. The Fund supports projects in every county of the state, everything from municipal parks and recycling to land conservation and riverfront revitalization. And bad budget decisions have left a \$1 billion backlog in health, safety and basic maintenance projects at state parks.
- The Cuomo administration must make critical decisions about the best ways to protect New York's waters from the dangers of natural gas exploration, currently the state's most high profile environmental challenge. Failure to put tough regulations in place, as well the necessary staff and resources to enforce these standards, could spell disaster for New York's environment.
- The Governor must also find innovative ways to reduce the state's share of climate-altering greenhouse gas emissions and adapt to the fact that New York's climate is already changing.

In meeting these challenges, the Cuomo administration must take care to craft policy proposals that help stimulate economic growth rather than stifle economic opportunity. Thoughtful policy actions can drive economic investment. For instance, in the fight against climate change, policies that support the growth of legitimate renewable energy systems can result in new jobs, as documented in other states. But poorly planned policy decisions, such as ignoring inspections of hazardous waste generating facilities, will result in long-term burdens for New York's taxpayers.

The environmental decisions made during the next four years will have long-lasting impacts on that health of our natural resources and our economic recovery.

In that spirit, our organizations are pleased to share proposals for meeting these challenges. The memos that follow offer solutions to the state's most pressing environmental problems.

We congratulate Andrew Cuomo and the new State Legislature and trust that *Green Memos* will be helpful as New York looks to meet our environmental and economic challenges during the next four years.

GREEN MEMOS AT-A-GLANCE

Memo 1: Safeguard New York from Dangerous Hydraulic Fracturing. Before issuing permits to drill for natural gas in New York, the Governor and State Legislature should update rules and regulations related to drilling, particularly high-volume hydraulic fracturing, or “fracking.” Fracking has poisoned water sources in other parts of the country.

Memo 2: Prevent Harmful Water Withdrawals. New York needs to protect our waters from wasteful large-scale withdrawals by enacting legislation that gives the state the authority to regulate facilities with the capacity to withdraw more than 100,000 gallons of water per day.

Memo 3: Rebuild New York’s Environmental Agencies. The state’s environmental agencies are in desperate need of staff and resources after years of irresponsible budget cuts. The Department of Environmental Conservation and Office of Parks, Recreation & Historic Preservation need resources to ensure the health and safety of our environment and New Yorkers.

Memo 4: Restore & Maximize Environmental Protection Fund Monies. The state’s Environmental Protection Fund is underfunded and overcommitted. State leaders must increase appropriations for the Fund to safeguard investments in city parks, zoos, conservation, farmland preservation, water quality and recycling, and more.

Memo 5: Reduce Disposable Bag Use. Disposable shopping bags are an environmental nuisance. The Governor and Legislature should approve a five-cent fee on disposable paper and plastic bags used in grocery stores and other retail outlets. The fee would help reduce bag consumption and pollution.

Memo 6: Create Liveable, Smart Growth Communities. One of the best ways to assure environmental protection is to promote sustainable transportation policy in order to revitalize our cities. In this tight fiscal environment, state leaders should invest in sustainable transportation options that encourage less resource-consumptive land use.

Memo 7: Strengthen the Regional Greenhouse Gas Initiative. The 10-state regional climate effort to cut pollution from power plants is successfully generating revenue for the state to invest in clean energy and energy efficiency while reducing the pollution that is changing our climate. State leaders should expand the Regional Greenhouse Gas Initiative to more large stationary sources of air pollution.

Memo 8: Invest in Solar Energy & New York Jobs. The Governor and Legislature should stimulate the state’s solar photovoltaic industry, and the jobs it creates, by requiring utilities to acquire solar renewable energy credits.

Memo 9: Reform the Public Service Commission & Make Energy Efficiency & Renewable Energy a Higher Priority. The Public Service Commission has a reputation for micromanaging, and thus delaying, renewable energy programs. To address this, the Governor should conduct a top-to-bottom assessment of the PSC and make energy efficiency and renewable energy a higher priority.

Memo 10: Improve & Finalize the State Climate Action Plan. In order to avert the worst effects of climate change, New York must reduce greenhouse gas emissions by 80 percent by the year 2050. To meet this goal, the Governor should improve and finalize the New York State Climate Action Plan and recommend steps to reduce climate pollution from all sectors of the economy.

Memo 11: Clean Up & Redevelop Contaminated Brownfields. New York should fix its broken Brownfield Cleanup Program by advancing legislation to reform wasteful tax incentives and directing the state’s environmental agency to improve cleanup standards.

Memo 12: Require the Disclosure of Cleaning Product Ingredients. New Yorkers deserve to know about the potentially dangerous chemicals in the cleaning products they use every day. The state should enforce a 34-year-old law that requires cleaning product manufacturers to disclose the ingredients in their products.

MEMO #1: SAFEGUARD NEW YORK FROM DANGEROUS HYDRAULIC FRACTURING

The Governor should direct the Department of Environmental Conservation (DEC) to update rules and regulations related to natural gas drilling, particularly high-volume hydraulic fracturing (often called “fracking”), prior to issuing drilling permits.

Idea Summary: To safeguard New York’s environment, particularly our drinking water, the state should enact and/or update regulations and ensure the DEC has adequate staff to provide oversight of such drilling. New York should:

- Enact new regulations that limit, restrict or prohibit (as appropriate based upon toxicity and potential for harm) the chemical additives used in the hydraulic fracturing process, as well as prohibit open pits or impoundments for drilling waste storage.
- Update wastewater treatment regulations to reduce pollution from hydraulic fracturing wastes as much as possible. If wastes cannot be treated to a safe level by current technologies, a “no permitting” standard should be applied.
- Enact new regulations for hard buffer zones and neighbor notification. All gas facilities should be located at least 2,000 feet from surface waters, groundwater wells, homes or private residences (including nursing homes), schools, churches, day care and health care facilities, and ensure that neighbors within one half-mile of a well site receive one month’s written notice prior to drilling, fracturing or re-fracturing a well.
- Enact new regulations that establish exclusion areas in which hydraulic fracturing and horizontal drilling are not permitted. These areas should include any watershed with a filtration avoidance determination, areas overlying sole source aquifers, endangered species habitat and bird conservation areas, floodplains, and areas within state parks, forest preserves, state forests, wildlife refuge, wildlife management areas, or wilderness areas.
- Update the state’s current arbitrary regulations classifying all drilling wastes as “industrial” (regardless of their chemical makeup) to ensure that any hydraulic fracturing wastes that meet the definition of “hazardous” are subject to all applicable generation, transportation, treatment, storage, and disposal laws and regulations under New York State Environmental Conservation Law and DEC regulations.

Environmental Problem: New York State is expected to experience a boom in natural gas well development and gas production in the near future. The state sits atop two major gas-bearing geologic layers: the Marcellus and Utica Shale formations that could yield large amounts of natural gas. According to the DEC, the state expects 1,500 to 2,500 applications for such drilling annually.

In order to access the gas trapped in these shales, the gas industry employs techniques known as high-volume hydraulic fracturing and horizontal drilling. These techniques involve drilling nearly a mile down, through aquifers and drinking water supplies, prior to drilling horizontally to access as much of the gas in a given area as possible. A slurry of millions of gallons of water, sand and chemicals (many of which are known toxins and carcinogens) is then pumped into the well at high pressures to fracture the rock and release the gas.

Hydraulic fracturing poses serious environmental and human health risks. The water needed for the slurry often comes from local sources, many of which have no protections to guard against over-withdrawal and subsequent damage to ecosystem health. Many of the chemicals used in the process are dangerous for human, plant and animal life, and a release of these chemicals can wreak havoc and devastation in local communities and ecosystems.

In addition, New York has no way to treat the wastewater produced by hydraulic fracturing. The industry must pay for and build facilities to treat wastewater.

Funding the DEC: Once the Governor has determined to update New York's laws and regulations, the Executive's proposed budget should increase drilling-associated bonds and fees in order to provide the DEC with staff to oversee and enforce drilling laws and regulations. Once a regulatory process is undertaken, the Governor should propose a robust severance tax on oil and gas.

The agency needs staff to oversee the potential development in the Marcellus and Utica Shales. The DEC currently has 17 permit reviewers to handle applications. If the agency is correct in estimating 1,500 to 2,500 permit applications per year, 17 reviewers cannot provide meaningful oversight.

Endorsed by: Adirondack Mountain Club, Audubon New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Natural Resources Defense Council, New York League of Conservation Voters and New York Public Interest Research Group.

Policy History: New York intends to issue permits for hydraulic fracturing after the DEC completes its work on a Supplemental Generic Environmental Impact Statement, an assessment of the risks associated with hydraulic fracturing and horizontal drilling.

A comprehensive bill that requires the DEC to issue a variety of different regulations was introduced by Assemblyman Bob Sweeney (A.11347). On August 3, 2010, the New York State Senate overwhelmingly (49-9) passed a bill (S.8129) that would prevent DEC from issuing permits for wells using hydraulic fracturing until May 15, 2011. The Assembly passed the bill on November 29, 2010, but it was vetoed by Governor Paterson.



MEMO #2: PREVENT HARMFUL WATER WITHDRAWALS

The Governor should advance and the Legislature should approve a bill that provides the Department of Environmental Conservation (DEC) with authority to regulate facilities with the capacity to withdraw more than 100,000 gallons of water per day. *New York currently lacks a statewide program for protecting waters from large-scale water withdrawals. Absent such regulations, individuals and corporations can withdraw as much water from streams, rivers, lakes and creeks as they wish regardless of consequences for aquatic ecosystems, downstream water supplies, and dilution requirements on pollution discharges.*

Idea Summary: The regulatory program negotiated in 2010 (A.11436-B / S.8280-A) by the DEC, Farm Bureau, the New York State Chemical Alliance and the environmental community would protect New York's waters from large unregulated withdrawals. The program would require all withdrawers with the capacity to withdraw more than 100,000 gallons per day to apply for a DEC permit with parameters designed to protect waterways and other users.

The program spells out different rules for agricultural users, including a special threshold for regulatory oversight, and would require those users to register or report their use. It would not require a permit for existing agricultural users (unless those users fail to report under current law by April 1, 2011). For agricultural users, the threshold is set for withdrawals of more than 100,000 gallons per day on a 30-day average. Additionally, the program would direct the DEC to establish a statewide conservation and efficiency program to promote wise water use through voluntary and regulatory methods.

Beyond providing water protections statewide, the program would bring New York State in line with the eight-state Great Lakes Compact. While the Compact laid out the framework for protections Basin-wide, each state is responsible for implementing its aims through individual laws and regulations. The Compact includes a deadline of December 2013 for establishing a water management program. As all of the provisions laid out in the negotiated program must also be promulgated through regulations, and the regulatory process can be multi-year, it is imperative that this program be enacted now to meet statutory requirements.

Environmental Problem: New York State currently lacks a statewide program to protect waters from large-scale water withdrawals. Absent these regulations, individuals and corporations can withdraw as much water from streams, rivers, lakes and creeks as they wish regardless of the consequences. Such consequences can include reducing water levels to the point of harming or destroying fish and wildlife habitat, decimating plant life, and shortchanging a water body's assimilative capacity for pollutant discharges—potentially leading to water quality violations and a need to undergo a costly permit review—thereby reducing its resilience in the face of other forms of pollution.

One major new consumptive use of water resources is natural gas development using the hydraulic fracturing process. The Executive must look at the gas industry's water needs critically. According to the DEC, each well drilled will require 2.5 to 8 million gallons of water (according to industry experts the average amount of water used per well is 4 to 5 million gallons). The DEC estimates that 1,500 to 2,500 well applications will be submitted per year. That equals the potential for billions of gallons of water used per year and a threat to public and private water supplies.

While New York is home to industries that use far more water than gas drilling, such large water users are typically sited on large water bodies that can accommodate large withdrawals. In the case of gas drilling, the industry will attempt to rely on local water sources to reduce trucking costs, and those sources may or may not be able to adapt to water withdrawals. In addition, many of New York's streams, creeks and rivers already provide

water for multiple users, such as farms or other businesses. The only way to prevent damages from multiple, large-scale water withdrawals is to regulate the withdrawals with the aim of ecosystem protection.

Endorsed by: Adirondack Council, Adirondack Mountain Club, Audubon New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Natural Resources Defense Council, New York League of Conservation Voters, New York Public Interest Research Group and The Nature Conservancy New York.

Policy History: In parts of New York State, regulatory programs exist to prevent excessive water withdrawals. Water withdrawals within the Susquehanna and Delaware River Basins are overseen and permitted by multi-state commissions. Withdrawals from groundwater on Long Island are permitted by the DEC, but without surface water protections. In the Great Lakes Basin, the Great Lakes-St. Lawrence River Basin Water Resources Compact established a framework of protections, but needs additional state laws and regulations to implement the Compact's aims.



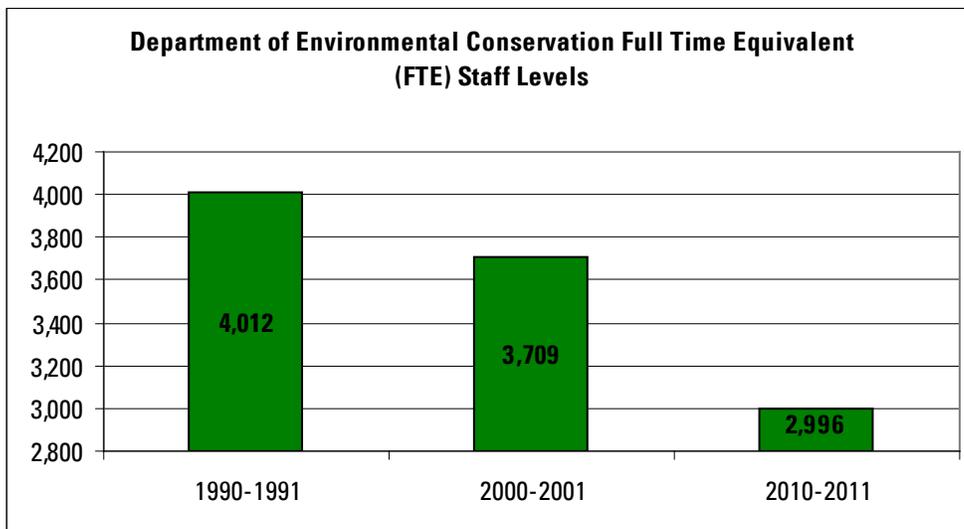
MEMO #3: REBUILD NEW YORK'S ENVIRONMENTAL AGENCIES

The Governor and Legislature should provide adequate resources to the Department of Environmental Conservation (DEC) and to the Office of Parks, Recreation and Historic Preservation (OPRHP) and other environmental agencies to ensure the health and safety of all New Yorkers and our shared environment.

Idea Summary: The Governor should increase resources available to the DEC and OPRHP to allow these agencies to carry out their statutorily required duties and manage state resources. Strong regulators help protect New York from environmental degradation that makes the state a less attractive place to live and work. Rebuilding state agencies is a key component to ensuring long-lasting economic development in New York. And a strong parks system helps provide New Yorkers with access to nature, recreation and jobs.

Environmental Problem: The DEC is currently operating with 1,000 fewer staff than 20 years ago due to budget cuts, layoffs, the hiring freeze and retirement incentives. Additionally, 50 percent cuts to non-personal services spending since SFY 2007-08 were implemented by the Division of Budget (DOB). OPRHP has lost more than 1,400 permanent and seasonal staff and has absorbed an 18 percent reduction in resources.

At the DEC, budget cuts have forced the agency to reduce responses to oil spills by half, endangering water supplies. Just this past summer, an accident at a bridge construction project in Ontario County caused approximately 250 gallons of diesel fuel to be released into an excavation pit at the worksite. The foreman attempted to hide the spill by covering it with soil. But two days later, fuel from the spill began to leak into a creek that flows into Canandaigua Lake, the primary water supply for the City of Canandaigua and the villages of Rushville, Shortsville, Manchester and Newark.



New York's water program relies on polluters to self-report the toxicity of effluent discharged into surface water. In 1990, DEC staff sampled effluent more than 1,000 times to verify polluters' reports. In 2008, the agency took a mere approximately 100 samples from the thousands of sources that release tens of billions of gallons of sewage and industrial waste every day, a 94 percent decrease.

Due to budget cuts, New York State's parks system has seen service reductions and was threatened with parks closures until the Governor and Legislature restored funding for 2010-11 Fiscal Year. An analysis commissioned by the State Council of Parks identified \$461 million in health and basic safety needs at New York State parks (including drinking water improvements and sewage treatment). Another \$600 million was identified for facility improvements.

Proposed cuts will also result in limited operations for invasive species management. Invasive species can have a devastating impact on wildlife and habitats. New invasive species enter New York State each year, impairing economic growth in industries including forestry and recreational fishing and boating, as well as public enjoyment of parks and nature preserves.

Without the staff or resources to effectively manage and prevent pollution, we threaten the well-being of the environment and endanger people’s health. By failing to devote resources to critical agency activities now, we risk having to clean up costly pollution later.

Endorsed by: Adirondack Council, Adirondack Mountain Club, American Lung Association in New York, Audubon New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Natural Resources Defense Council, New York Public Interest Research Group, Sierra Club Atlantic Chapter and The Nature Conservancy New York.

Policy History: The DEC is currently operating with 1,000 fewer staff than 20 years ago due to budget cuts, the hiring freeze, layoffs and retirement incentives. OPRHP is operating with 1,400 fewer permanent and seasonal staff.



MEMO #4: RESTORE & MAXIMIZE ENVIRONMENTAL PROTECTION FUND MONIES

The Governor and the Legislature should restore Environmental Protection Fund (EPF) appropriations that have been disproportionately cut during the past two budget cycles. *The Governor and the Legislature should also end the practice of redirecting environmental funds for general budget relief and consider new ways to leverage monies for environmental projects.*

Idea Summary: The EPF has been targeted for disproportionately large cuts in recent state budgets. Restoring the EPF appropriation and increasing disbursements from the fund can address the backlog of existing projects and move forward with new projects to benefit communities statewide. With a larger Fund, New York can keep more family farms working, help to ensure quality drinking water sources for communities, and provide economic investment and job opportunities from Jones Beach to the Adirondacks to Niagara Falls.

The Governor and the Legislature should also consider new ways to leverage monies for environmental projects such as creative use of bonds issued by the Environmental Facilities Corporation or authorizing new conservation funding mechanisms by local governments to maximize return on investments by New York State. Environmental investments create jobs, eliminate solid waste, prevent pollution and invasive species, protect natural resources and community character, revitalize urban areas, and connect people with the outdoors.



Environmental Problem: Since 2008, the EPF appropriation has been reduced from \$255 million to \$134 million, a 47 percent cut. In addition, enacted state budgets from prior years have diverted nearly \$500 million in cash from the Fund for general deficit relief, leaving New York State unable to honor all of its existing obligations. The EPF is currently long on commitments and short on cash. For example, as of fall 2010 per the Office of the State Comptroller, based on the diversions the backlog of EPF projects waiting for payment is estimated to be at least \$85 million for the land acquisition and farmland protection programs alone.

Because of these significant cuts and periodic redirections of resources, the Fund is currently operating on a month-to-month cash management plan and can no longer disburse sufficient funding to meet demand in a timely way. These long delays put many EPF programs at risk. Although each year the demand for funding has outpaced appropriations, the state has not issued new requests for proposals due to the backlog. The current situation puts matching funds leveraged from local and federal governments, as well as private sources, at risk. This instability is a new development for the Fund, which makes it difficult for stakeholders to plan for incremental and steady project implementation because there is no guarantee that a funding stream for completing a multi-year project will be available in a timely way.

Endorsed by: Adirondack Council, Adirondack Mountain Club, American Lung Association in New York, Audubon New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Natural Resources Defense Council, New York League of Conservation Voters, New York Public Interest Research Group and Sierra Club Atlantic Chapter.

Policy History: Since 2008, the EPF appropriation has been cut disproportionately—from a total appropriation of \$255 million to \$134 million, a 47 percent reduction. Furthermore, since 2003, approximately \$500 million, or one-quarter of total EPF appropriations, has been swept for General Fund relief even though state spending rose during the same time period.



Photo courtesy of Victor Fandrich.

MEMO #5: REDUCE DISPOSABLE BAG USE

The Governor should advance and the Legislature should approve a five-cent fee on disposable paper and plastic shopping bags used in grocery stores and other retail outlets. *Charged at the point of sale, the fee would discourage the use of disposable bags and environmentally harmful plastic bags, and discourage the use of replacement paper bags. Some countries and cities have successfully employed this policy to reduce plastic bag consumption and encourage the use of reusable bags.*

Idea Summary: Retailers would charge a five-cent fee on paper and plastic bags used to carry out groceries or other items. The store would print the amount charged on the customer receipt. Plastic bags used to line garbage cans, cover dry cleaning, and hold produce are composed of a different grade and thickness of plastic, and would not be subject to the fee.

A disposable bag fee will encourage shoppers to use reusable bags. In five years since adopting a 15-cent “plastax,” Ireland reduced plastic bag use by 90 percent and generated €75 million (\$97 million). Washington D.C. adopted a five-cent plastic bag tax in January 2010 to raise revenue to clean up plastic bag pollution in the Anacostia River. In the first six months, the tax has cut bag use in half.

Environmental Advocates estimates that a five-cent fee on disposable bags could generate up to \$330 million for the state in the first year. Experience from other jurisdictions is that revenue would decline quickly. Consumers could avoid the cost by using reusable bags or plastic bags from earlier shopping trips, rather than paying the fee.

Average Number of Disposable Bags Used/Person	440
Disposable Bag Fee	\$0.05
New York State Population 18+	15,000,000
Total Revenue	\$330,000,000
Avoidable Cost to Consumer/Year	\$22

This revenue could provide resources for grants to local governments for solid waste management and recycling activities, support solid waste management activities at the state level, or other environmental programs.

Benefits for Retailers: Instead of buying millions of disposable bags to give away, retail stores’ bag-related costs will drop dramatically. In California, grocers and retailers backed a bill to ban plastic bag use altogether. Retailers such as Target, CVS and Price Chopper already offer a three- to five-cent discount for each reusable bag used by shoppers. Reusable bags are more prevalent than they were 10 years ago and can be purchased for a small fee (about \$1) at most retailers in New York because of the 2008 plastic bag recycling law, which required the sale of reusable bags.

Environmental Problem: Most people do not recycle plastic bags, which end up in landfills or cause environmental problems. The U.S. Environmental Protection Agency (EPA) estimates that in 2008 U.S. consumers used 550 tons of plastic shopping bags, 90 percent of which went directly to landfills.

Plastic bags create tons of waste and can take anywhere from 15 to 1,000 years to decompose. Improper disposal of plastic bags results in litter that often blows about in streets, is caught in trees, and clogs storm drains and waterways, as well as causing harm to wildlife. An estimated one million birds and 100,000 turtles and other sea animals die of starvation each year after ingesting discarded plastic bags, which block their digestive tracks. Both the Pacific Ocean and the North Atlantic are home to giant floating islands of trash containing abandoned plastic bags, bottles and debris.

The United States uses approximately 100 billion new plastic bags per year, which are made from petroleum products and natural gas, nonrenewable resources. It takes 12 million barrels of oil to produce the amount of plastic bags Americans use annually. New York's share is about 792,000 barrels, equal to about one month's worth of oil spilled in the Gulf Coast.

Endorsed by: American Lung Association in New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Natural Resources Defense Council, New York Public Interest Research Group and Sierra Club-Atlantic Chapter.

Policy History: Chapter 641 of 2008 mandates that stores recycle plastic bags through recycling stations and includes provisions about store sizes of more than 10,000 feet, or stores with five branches or more of 5,000 feet. The law also requires retailers to sell reusable shopping bags.

MEMO #6: CREATE LIVABLE, SMART GROWTH COMMUNITIES

The Governor should implement and the Legislature should oversee implementation of the recently enacted Smart Growth and Public Infrastructure Policy Act. *The Governor and Legislature should also promote sustainable transportation policy, including advancing Complete Streets legislation and securing transit funding in order to create livable and economically vibrant cities and towns.*

Idea Summary: One of the best ways to assure environmental protection of our natural resources is to embrace the revitalization of existing cities. In this tight fiscal environment, coupling priority growth centers with sustainable transportation options requires that our limited dollars are spent wisely to encourage land-use patterns that are less resource consumptive.

The Smart Growth and Public Infrastructure Priority Act (Chapter 433 of the Laws of 2010) requires that certain state agencies utilize smart growth principles when determining public expenditures. Focusing existing infrastructure dollars on economic revitalization of centers will help to reduce the conversion of open space and farms to residential housing, while protecting precious resources, such as New York's drinking water. The Governor should aggressively implement this law by appointing progressive leadership to state agencies and preserving the Smart Growth Cabinet to guarantee coordination between various state agencies.

Creating more livable and sustainable communities that are people-oriented, interconnected, and less auto-dependent can only be achieved by linking land-use and transportation policy. The Governor should turn the New York State Department of Transportation (DOT) into a smart growth leader by appointing a reformer to run the agency and directing her or him to implement the Smart Growth Infrastructure Act by:

- Making sustainability programs that connect land use and transportation—such as NYS DOT's GreenLITES and the Pennsylvania Department of Transportation Smart Transportation program—the norm for project selection rather than independent programs. Ensure the vast majority of transportation resources are directed to towns working to smart growth visions.
- Making roads safer for greener modes of travel by adopting a complete streets policy. Each year, roughly 1,200 people die in traffic accidents in New York State, 300 of them while walking. Traffic calming offers tremendous safety enhancements on dangerous roadways for limited capital investment. We strongly urge the Governor to support the complete streets policy that passed the State Senate in 2010 to ensure roads are safe for all users, use federal dollars to fix the states' most dangerous roads for walking, expand affordable and effective programs like the Local Safe Streets and Traffic Calming Grant and SafeSeniors programs, and start a new statewide Safe Routes to Transit program.

Smart growth in population centers can only be achieved with a sustainable public transit system. The Governor should:

- Stop the diversion of transit dollars. New York State has redirected hundreds of millions of dollars in dedicated transit funding resulting in fare increases, cuts to dozens of bus routes, and elimination of two New York City subway lines. Transit funding should be increased, not decreased. We urge the Governor to retain transit funding in his Executive budgets.
- Increase support for transit operations and capital projects and be open to a New York City congestion pricing program as a possible funding stream. The state's economy and environment are dependent on reliable transit service yet both Metropolitan Transit Authority (MTA) and non-MTA systems face

drastic funding challenges in coming years. The MTA's capital program deficit is \$10 billion of a \$25 billion program. New revenue sources will be necessary to stop the system from becoming unsafe and unreliable.

Environmental Problem: The vast expansion of the interstate highway system in the 1950's encouraged low-density, auto-dependent and decentralized land-use patterns that led to:

- Consumption of open space, farmland and water resources;
- Inefficient street layouts and higher public and private transportation costs;
- Higher per capita water, sewer, utility and other public infrastructure costs;
- Higher per capita pollution, carbon emissions and energy consumption; and
- More pervasive health issues, including obesity, diabetes and heart conditions.

Sprawling communities, with decreasing population, have led to wasteful infrastructure spending. However, given the Home Rule provision of the State Constitution, the state's ability to promote Smart Growth principals has been limited. Targeting infrastructure dollars across state agencies and encouraging alternate transportation modes where possible will be the key to curbing the negative impacts of climate change and limiting the sprawling of our centers.

Endorsed by: Adirondack Council, Adirondack Mountain Club, American Lung Association in New York, Audubon New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Empire State Future, Natural Resources Defense Council, New York League of Conservation Voters, New York Public Interest Research Group, Sierra Club-Atlantic Chapter and Tri-State Transportation Campaign.

Policy History: The Smart Growth and Public Infrastructure Priority Act (A.8011/S.5560) was signed into law by Governor Patterson on August 30, 2010.

A comprehensive bill on Complete Streets, that affects all roads eligible for State and Federal funding, was introduced by Senator Martin Milavé Dilan (S.5711-B), and on June 17th, the New York State Senate overwhelmingly (58-3) passed it. The Assembly Transportation Committee advanced a "same as" bill (A.8587-B), introduced by Assemblyman David Gantt.

MEMO #7: STRENGTHEN THE REGIONAL GREENHOUSE GAS INITIATIVE

The Governor should direct the Department of Environmental Conservation (DEC) to expand the Regional Greenhouse Gas Initiative (RGGI) to other large stationary sources of air pollution. *The DEC should amend its regulations and work with the other participating RGGI states to add additional sources to the first mandatory, market-based program to reduce climate-altering greenhouse gas pollution. A coordinated effort would result in greater pollution reductions throughout the Northeast.*

Idea Summary: Implemented in 2009, the 10 states participating in the RGGI have established a regional cap on carbon dioxide (CO₂) emissions from the power sector and are requiring power plants to possess a tradable CO₂ allowance for each ton of CO₂ they emit. The RGGI then reduces the number of allowances at set future dates. This approach allows market forces to determine the most economic means of reducing emissions.

To strengthen the regional climate effort, New York should require facilities that annually emit more than 25,000 metric tons of CO₂ to comply with program provisions. Sources meeting this threshold such as cement plants and major manufacturing facilities will soon be required to report emissions under a rulemaking by the U.S. Environmental Protection Agency. And other states and Canadian Provinces are implementing programs that include stationary sources.

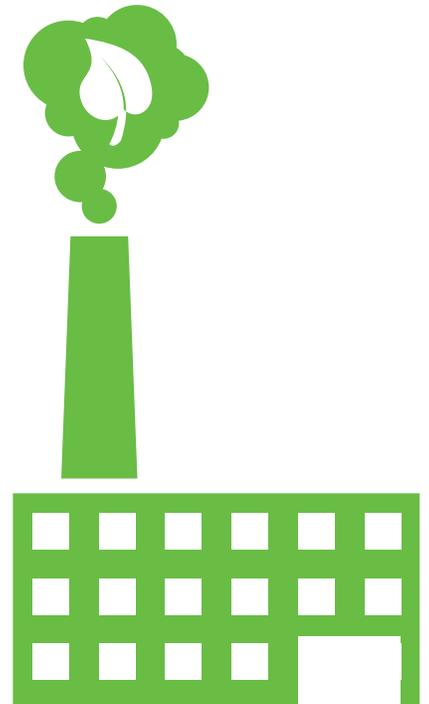
Adding major stationary sources of air pollution is a logical extension of RGGI. Under the Clean Air Act, such sources are already subject to strict air pollution regimes and are significant contributors of CO₂.

RGGI's Economic Benefits: A key feature of the regional initiative involves auctioning pollution allowances for public benefit programs. Overall, participating states are investing at least 80 percent of RGGI auction proceeds in programs to benefit consumers such as renewable energy and energy efficiency. These investments reduce greenhouse gas emissions and generate important consumer benefits, including lower energy bills, greater electric system reliability, and new jobs.

In addition to the benefits that result from the reduction of greenhouse gas emissions, the RGGI has indirect benefits including reducing other pollutants from fossil fuel-fired power plants. These pollutants are responsible for asthma attacks and premature deaths in seniors, increased levels of mercury contamination, and the destruction of our forests by acid rain.

Environmental Problem: Identified by many as the greatest environmental challenge of our lifetime, global climate change poses many threats to New York, including increased risk to infrastructure and coastal property, more intense storms, and flooding and poorer air quality in urban areas.

The lynchpin in New York's strategy to reduce the emissions responsible for global climate change is the RGGI. After a successfully launching the program across 10 states, the initiative needs a tune up. The initial cap for the RGGI was set at 188 million short tons, slightly higher than historical emissions by member states, with New York's allocation set at approximately 64 million tons. At the time the cap level was negotiated, assumptions,



since proven inaccurate, were made about increases in electricity demand and other factors. In addition, low natural gas prices, facility efficiency improvements, and facilities switching to natural gas as a fuel source have led to lower than expected emission levels.

The New York State Energy Research & Development Authority (NYSERDA) estimates that in 2009 region-wide emissions from covered facilities at approximately 122 million tons, more than 60 million tons below cap level. This overabundance of RGGI allowances has put downward pressure on allowance prices. If nothing is done to correct the cap so that it reflects actual 2009 emissions, the RGGI may not reduce pollution levels by 10 percent by 2008.

Endorsed by: Adirondack Council, Adirondack Mountain Club, American Lung Association in New York, Audubon New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Natural Resources Defense Council, New York Public Interest Research Group and Pace Energy & Climate Center.

Policy History: Implemented in 2009, the RGGI is a signature initiative led by New York. The DEC implements the program and NYSERDA has responsibility for administering public benefit programs and handling the allowances. Through the December 2010 auction, New York has generated more than \$282 million in revenue from the allowance auctions for public benefit programs.



MEMO #8: INVEST IN SOLAR ENERGY & NEW YORK JOBS

The Governor should work with the Legislature to stimulate the solar photovoltaic (PV) industry by requiring investor-owned utilities, New York Power Authority (NYPA) and Long Island Power Authority (LIPA) to acquire solar renewable energy credits (SRECs). *Using this structure, New York State should set a goal of installing 5,000 megawatts of solar capacity by the year 2025. Short-term and medium-term goals should also be set.*

Idea Summary: The legislation would create a requirement for utilities to produce and procure a set percentage of generation from solar, beginning with .05 percent in 2012, gradually increasing to 2.5 percent by 2025. Utilities would be provided with several compliance options, including owning and operating solar projects themselves, procuring energy from solar installations owned by others, purchasing it on the wholesale market, or making a compliance payment.

To incentivize a market for solar projects of varying sizes, utilities would be required to meet some percentage with SRECs from both small and large PV systems with the remainder from utility projects that sell to the wholesale market. This market-based approach ensures that the state achieves its solar goals in the most cost-effective manner, as companies will be competing against each other.

Creating a SREC market in New York will attract private capital to help grow the state's budding solar energy industry. This approach builds off current plans by NYPA and LIPA to install additional PV capacity.

A study completed by the Energy and Environmental Technology Center in 2007 concluded that a New York solar installation target of 2,000 megawatts by the year 2020 could produce as many as 3,000 permanent construction jobs and 10,000 manufacturing/integration jobs. In addition, the Renewable Energy Policy Project concluded that currently available manufacturing facilities in the state could be retooled to manufacture solar components and create 14,617 jobs. And it's important to note that many of the facilities that could be retooled are located in Upstate New York.

Environmental Problem: Despite the large growth potential and economic and environmental benefits, solar PV is currently a negligible portion of New York's energy mix, representing less than one percent of New York's electricity generation. New York lags behind neighboring states like New Jersey in yearly solar PV installation. States such as Pennsylvania and Massachusetts have set aggressive PV goals.

Legislation encouraging the use of solar energy would increase energy independence, reduce global warming pollution, and improve electricity system reliability. Encouraging the deployment of zero-emissions power sources helps displace the use of polluting fossil fuel-based electricity and protects New Yorkers from the harmful effects of air pollution. These harmful effects include asthma attacks and premature deaths in seniors, increased mercury contamination, destruction of forests by acid rain, as well as the wide-ranging effects associated with global climate change.

Endorsed by: American Lung Association in New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Natural Resources Defense Council, New York League of Conservation Voters, New York Public Interest Research Group, Pace Energy & Climate Center and Sierra Club-Atlantic Chapter.

Policy History: Legislation with a similar intent A.11004/S.7093 – The New York Solar Industry Development and Jobs Act, was introduced in 2010 and advanced in both houses of the State Legislature.

MEMO #9: REFORM THE PUBLIC SERVICE COMMISSION & MAKE ENERGY EFFICIENCY & RENEWABLE ENERGY DEVELOPMENT A HIGHER PRIORITY

Address structural waste and inefficiency by reforming the Public Service Commission (PSC). We urge the Governor to initiate a review of that program in order to ensure New York meets its energy efficiency goals.

The PSC should be commended for their strong leadership in ordering ratepayer collections to support vital renewable energy, energy efficiency and other clean energy programs. However, such collections are only as noteworthy as the on-the-ground benefits they generate. The implementation of some of these programs has been slow, jeopardizing the success of New York's clean energy policies and denying New Yorkers much-needed returns on their investments. The PSC's implementation of the Energy Efficiency Portfolio Standard (EEPS) has been delayed.

Idea Summary: We strongly agree with Governor Cuomo's assessment that "the PSC often delays approval of noncontroversial and effective energy efficiency programs. The PSC must be more transparent and efficient." Delays at the PSC have unnecessarily slowed the implementation of energy efficiency and renewable energy programs.

The PSC must undergo an institutional, top-to-bottom assessment to ensure both the commissioners and Department of Public Service staff are fully committed to the effective implementation of New York's "45 by 15" clean energy goals, as well as any future initiatives to further reduce statewide energy demand.

Any decisions made regarding appointments to the Commission should fully consider—and ensure—that a candidate has sufficient expertise in the fields of energy efficiency and renewable energy. Likewise, any future appointments to the Commission should be individuals capable of providing the administrative leadership to ensure that Department of Public Service staff are implementing the Commission's and the state's initiatives and policies in an expeditious and effective manner. A hands-on approach from commissioners is necessary to correct what has been a recent track record of regulatory delays and inaction.

Environmental Problem: The Lawrence Livermore National Laboratory recently reported that of the primary energy consumed in this country, 60 percent is wasted through inefficiencies, leading to wasted money and avoidable air and water pollution. If its savings targets are met, the EEPS will help avoid such waste by reducing New York's electricity demand 15 percent below projected levels by 2015.

However, micromanagement has contributed to the current situation in which utilities and New York State Energy Research & Development Authority are falling short of their interim savings targets. It is now three years since the gubernatorial challenge to aggressively pursue energy efficiency in New York and more than two years after the issuance of the related Executive Order. By the end of 2009, EEPS efforts had achieved a mere 16



percent of the megawatt hours reductions required to be on track to achieve decreased electricity consumption by 2015. The PSC's more recent assessments of the program show some improvements, but indicate that as of the third quarter of 2010, the state has only acquired 40 percent of its net electricity savings target. This slow implementation of the EEPS has deprived New Yorkers of both the utility bill savings and job creation benefits these investments would have otherwise created.

While there are a number of factors that have contributed to these delays, including the severe economic recession, the bulk of the responsibility ultimately rests with Department of Public Service staff and the PSC. Aggressive leadership from the Governor's office will be required to get the EEPS back on track and ensure the state's major energy efficiency program does not fail.

Failure to capitalize on the EEPS and meet the energy savings targets will also slow the state's economic recovery, as a dollar saved on utility bills can be invested in other areas of the economy. Furthermore, the PSC Order instituting the EEPS projected that full implementation would create 37,000 new jobs—but only if the targets are met.

Finally, failure to implement EEPS will deny New Yorkers the myriad environmental and health benefits promised by the program, including reducing the harmful effects of air pollution created by fossil fuel-fired power plants. This pollution contributes to asthma attacks and premature deaths in seniors, increased levels of mercury contamination, destruction of our forests by acid rain, as well as wide-ranging negative effects associated with global climate change.

Endorsed By: American Lung Association in New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Natural Resources Defense Council, New York League of Conservation Voters, New York Public Interest Research Group, Pace Energy & Climate Center and Sierra Club-Atlantic Chapter.

Policy History: Created more than 100 years ago, the PSC and the Department of Public Service have regulatory responsibilities ranging from telecommunications to electric utilities. Increasingly, the Commission has helped formulate state environmental policy in cooperation with the Department of Environmental Conservation and the New York State Energy Research & Development Authority. The EEPS established under Governor Spitzer in 2007 seeks to reduce statewide demand for electricity 15 percent from forecasted levels by the year 2015; subsequent PSC orders established similar reduction targets for natural gas.

MEMO #10: IMPROVE & FINALIZE THE STATE CLIMATE ACTION PLAN

The Governor should improve and finalize the current draft of the New York State Climate Action Plan that recommends steps to reduce greenhouse gas emissions from all sectors of the economy. *In order to avert the worst effects of global warming, New York State must reduce climate-altering greenhouse gas emissions 80 percent by mid-century as recommended by the scientific community.*

Idea Summary: Released in November 2010, the State Climate Action Plan Interim Report provides a useful starting point for steps to reduce greenhouse gas emissions from all sectors of the state economy. This important planning process should be continued finalized and under the Cuomo administration. The new administration should also use the transition as an opportunity to improve the plan by making the following changes:

- A new interim greenhouse gas reduction target should be added that calls for aggressive reductions in greenhouse gases by the year 2020;
- A greater emphasis should be placed on meeting energy needs through energy efficiency and renewable energy development; and
- Less emphasis should be placed on waste incineration, nuclear power, and the pursuit of unproven and costly technologies such as coal with carbon capture sequestration to meet the state's electricity needs.

Benefits for the Economy: Actions taken today to control greenhouse gas pollution avoid the *staggering* costs associated with inaction. Many of these costs, especially those to protect infrastructure, will ultimately be paid by taxpayers in the form of higher property taxes. Actions to control climate-change pollution can also stimulate New York's economy. In 2006, California signed into law AB 32, which includes a similar statewide emissions reduction target in 2020. The new law spurred more than one billion dollars in investment from the private sector—nearly \$1.8 billion in 2007, a 50 percent increase from the year before the law was on the books. The California law, reaffirmed by voters in 2010, provided certainty for industry, and money and jobs followed.

Adopting such a policy in New York will help the economy and expand renewable energy production and installation and energy efficiency and weatherization, as well as create thousands of green jobs. In addition, almost 40 percent of the greenhouse gas pollution abatement could be achieved at “negative” marginal costs (i.e., for a cost savings). But every year we delay improving energy efficiency, we lose more negative-cost options (Source: McKinsey & Company).

Environmental Problem: The following are just a few of the negative impacts that will result from climate change. Acting now to reduce greenhouse gas pollution can avoid or reduce these negative effects.

Increased Risk to Infrastructure & Coastal Property—Observations taken at stations around New York show sea levels have been steadily rising for more than 100 years. The Hudson Valley, New York City and Long Island will be impacted by sea-level rise. Conservative estimates project a global rise in sea level of 10 inches to two feet by the end of the next century.

Public Health: Increased Heat-Related Illness & Death—With more days above 90 and 100 degrees, the most serious public health effect for New Yorkers as result of climate change may be increased heat-related illnesses and deaths.

Increased Ground-Level Ozone & Asthma—Another serious public health effect related to global warming involves health risks associated with increased urban smog, known as ground-level ozone or O₃. As of March 2006, 30 out of New York State's 62 counties, including all of New York City and Long Island, are already violating the U.S. Environmental Protection Agency's minimum air quality standard for ozone.

More Intense Storms & Flooding—New York would become more vulnerable to extreme weather events, which will occur more frequently and with greater intensity due to increased precipitation levels and rise in average temperatures associated with global warming. New York State is mostly prone to severe thunderstorms, flooding, occasional tornadoes and tropical hurricanes.

Endorsed by: Adirondack Council, Adirondack Mountain Club, Citizens Campaign for the Environment, Environmental Advocates of New York, Empire State Future, Natural Resources Defense Council, New York Public Interest Research Group, Pace Energy & Climate Center, Sierra Club-Atlantic Chapter and Tri-State Transportation Campaign.

Policy History: New York began developing the State Climate Change Action Plan in January 2010 as the result of Governor Paterson's Executive Order 24.

Legislation to establish a mandatory state greenhouse gas reduction target has been introduced in prior legislative sessions. Most recently, the Global Warming Pollution Control Act (S.4315/A.7572) passed the Assembly in April 2010. The Senate version of this bill languished in the Finance Committee.



MEMO #11: CLEAN UP & REDEVELOP CONTAMINATED BROWNFIELDS

The Governor should direct the Department of Environmental Conservation (DEC) to review and improve brownfield cleanup standards, as well as advance legislation to reform related tax incentives in order to encourage the redevelopment and reuse of contaminated properties.

Idea Summary: New York should make comprehensive changes to the state's Brownfield Cleanup Program, including:

- 1) Revisit the standards used to guide brownfield site cleanups as many of the objectives are inadequate and not protective of public health. The DEC should be directed to revisit cleanup standard regulations that are weaker than those in other states, and in some cases allow a level of contamination to remain in the soil that would have triggered a cleanup in the past.
- 2) Separate eligibility for the brownfield tax credits from eligibility for the Brownfield Cleanup Program (BCP). Allow eligible sites to enter the program in order to only receive the technical and legal benefits associated, including state assistance and oversight and release from liability.
- 3) Beginning in 2013, establish a \$100 million annual cap on the redevelopment portion of the brownfield tax credits that can be awarded in any fiscal year. If applicants apply for tax credits, awards should be based on the extent to which criteria established in the statute are satisfied. Such criteria could include whether the site is cleaned up to highest standard, whether a site is being developed to conform to a Brownfield Opportunity Area program, or whether the site is located in an environmental zone.
- 4) Ensure that sites contaminated from off-site sources, including historic fill sites, are eligible for participation. All sites with contamination that exceeds applicable health-based or environmental cleanup standards, or where contamination is likely to be present based on past industrial or commercial use should be eligible for entry into the BCP.



Environmental Problem: Economic development throughout New York State is hampered by the toxic contamination from our industrial legacy. Brownfields make neighborhoods unattractive to business development and in some cases keep properties off the tax rolls, placing the burden on other property taxpayers. Making such changes also provides certainty to a program that has been plagued by uncertainty, legal challenges and a failure to live up to its promise.

A 2005 study by the U.S. Environmental Protection Agency (EPA) found that other state brownfield cleanup programs have cleaned up many more sites than New York's program. Based on an EPA update in 2009, Massachusetts has completed cleanups of more than 33,000 sites and New Jersey and Pennsylvania's programs

have cleaned up thousands of sites. While estimates vary about the number of brownfield sites in New York, it is widely believed there are tens of thousands of such properties across the state. These properties threaten the environment and public health and encourage the cycle of disinvestment and decay across New York State.

In 2008, prior to program reforms, the Office of the State Comptroller estimated that “the outstanding tax credit liability for all projects currently enrolled in the BCP is estimated to be as high as \$3.1 billion.”

The New York State Department of Taxation and Finance now reports on taxpayers claiming the various brownfield tax credits each year. The total amount of certain credits (site preparation, tangible property and on-site groundwater remediation credits) claimed by taxpayers for 2008 and 2009 totaled nearly \$365 million. According to the DEC, so far only 68 sites have been cleaned up and received a certificate of completion making them eligible to claim tax credits.

In an effort to close the general budget deficit, the 2010 Enacted Budget defers the payments on certain tax credits (including brownfield tax credits) in excess of \$2 million until after January 1, 2013. This short-term solution should save New York approximately \$100 million per the State Financial Plan across all affected tax credits, but the bill will eventually come due.

Endorsed by: Adirondack Mountain Club, Citizens Campaign for the Environment, Environmental Advocates of New York, Natural Resources Defense Council, New York Public Interest Research Group and Sierra Club-Atlantic Chapter.

Policy History: Part Y of Chapter 57 of the Laws of 2010 established the deferment on the payment of tax credits claimed from January 1, 2010 to January 1, 2013, for brownfield tax credits in excess of \$2 million until 2013. Chapter 390 of the Laws of 2008 established caps on the size of the redevelopment portion of the tax credits. Chapter 1 of the Laws of 2003 established the Brownfield Cleanup Program and various incentives to encourage redevelopment of abandoned and contaminated property. Current bills under consideration include S.8071 – Thompson and Governor Paterson’s Program Bill # 228 (A.11435).

MEMO #12: REQUIRE THE DISCLOSURE OF CLEANING PRODUCT INGREDIENTS

The Governor should require the Department of Environmental Conservation (DEC) to enforce a 34-year-old law that requires cleaning product manufacturers to disclose the potentially dangerous ingredients in their products.

Idea Summary: Article 35 of the Environmental Conservation Law requires companies that manufacture household and commercial cleaners and sell those products in New York State to file semi-annual reports listing the chemicals contained in the products, as well as to describe any company research on such chemicals' effects on public and environmental health.

Since state regulations were adopted in 1976, companies have failed to file a single report. In September 2009, environmental and public health advocates sent letters to more than a dozen companies asking them to comply with the law. Only a handful of companies replied; several ignored or refused the request.

The DEC has committed to begin requiring household cleaning companies to reveal the chemical ingredients in their products and any health risks they pose. At a stakeholder's meeting in October 2010, DEC officials met with public health and environmental groups and cleaning product companies to begin a process for specifying a mutually acceptable timetable and method for making the information public.



Environmental Problem: Household and commercial cleaning products typically contain an array of chemicals that can be harmful to public health and to the environment. A growing body of evidence associates exposure to such chemicals with long-term effects such as cancer and hormone disruption. And because many cleaning chemicals survive the sewage system intact and are released into streams, there is growing concern that such chemicals pose a threat to fish and other aquatic wildlife.

Unfortunately, there is no state or federal requirement that cleaning product manufacturers identify chemical ingredients on product labels. Consumers find it difficult if not impossible to determine whether a particular cleaning product contains dangerous chemicals. By enforcing the law to require cleaning product manufacturers to disclose ingredients, consumers will be able to make more informed decisions for themselves and their families.

Endorsed by: American Lung Association in New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Natural Resources Defense Council, New York Public Interest Research Group and Sierra Club-Atlantic Chapter.

Policy History: Article 35 of the Environmental Conservation Law enacted in 1971 requires companies that manufacture household and commercial cleaners and selling their products in New York State to file semi-annual reports listing the chemicals contained in their products, as well as describe any company research on such chemicals' effects on public and environmental health.

ENDORISING ORGANIZATIONS

Environmental Advocates of New York thanks the following organizations for reviewing drafts and providing input and suggestions:

