

5. Environmental

Against NYS-only Environmental Regulations; In Favor of Regional, National, and International Regulation

A.E.S. Ltd.

The State is urged to be sensitive to negative consequences of unilateral New York environmental regulation. Rigorous State-specific air, water, and solid waste regulations could result in significant increased costs to generate electricity and reduce competitiveness with plants in surrounding states. Generation displaced to plants in surrounding states that are not subject to New York's rules could result in increased emissions from these out-of-state plants and offset or be greater than reduced emissions inside New York.

Response: The Department of Environmental Conservation, acting on behalf of New York State, considers the environmental need and economic consequences of all environmental regulations prior to promulgation. Although New York would prefer a regulatory “level playing field” with neighboring states and the rest of the nation, the **Department takes steps to protect New York's environmental resources when warranted**

Independent Power Producers of New York, Inc. (IPPNY)

The Energy Plan should encourage regional cooperation in the development of environmental regulations. The states must move away from the patchwork approach to environmental regulations toward a multistate approach.

Response: New York State, as a member of the Northeast Ozone Transport Commission, the Northeast States for Coordinated Air Use Management, the Ozone Transport Assessment Group, the Environmental Council of States, and other organizations, has worked to foster regional and national approaches to environmental regulation. Many of the regulations now in place in New York were promulgated to meet commitments made with one or more of these organizations. New York has worked cooperatively with other states to reduce air and water pollution, improve solid waste management, and protect and preserve natural resources. In addition, as evidenced by the strategies contained in the State Energy Plan (see Section 1.3) the State first and foremost prefers a multistate, regional, or federal approach to greenhouse gas reductions.

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New York State Petroleum Council

With respect to the Greenhouse Gas Task Force Recommendations, if a State climate program is implemented, it should coordinate with proposed and ongoing industry and federal government programs. It should focus on technology development and voluntary actions and avoid hard, near-term emission reduction targets and timetables. These are costly and inefficient and could place the industry and other businesses in the State at a competitive disadvantage.

While it is critical to be able to accurately measure emissions, it is much more complicated and potentially costly than might be assumed.

Response: New York State recognizes the need to coordinate regionally and nationally to reduce emissions of greenhouse gases and address global climate change. Creating an accurate inventory of such emissions is an essential step in developing strategies to reduce them.

Environmental Energy Alliance of New York

The Energy Plan should encourage action for control of greenhouse gases only when a national program is proposed.

Response: As discussed above, New York State recognizes the need to coordinate regionally and nationally to reduce emissions of greenhouse gases and address global climate change. As scientific evidence is amassed regarding the impact of greenhouse gas emissions and the need to reduce them, the State reserves the right to address the issue in the absence of an appropriate national response. As a result, recommendations in the State Energy Plan include strategies to address greenhouse gases.

Innovative Energy Solutions (IES)

IES's main concern is that any policies in New York affect our relative competitive position to neighboring states. New York, if it takes a very aggressive environmental policy relative to a more lax policy at the federal level, could put our State at a cost disadvantage, a further cost disadvantage that will hurt our competitive position and make it more difficult to attract new businesses and jobs to the State.

Response: New York is committed to both protecting the State's natural resources and fostering economic development and growth. In addition, as evidenced by the strategies contained in the State Energy Plan (see Section 1.3), the State first and foremost prefers a multistate, regional, or federal approach to greenhouse gas reductions.

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The Business Council of New York State, Inc.

The Business Council strongly opposes the recommendation that the State adopt State-level greenhouse gas emission targets for 2010, 2020, and 2050 and opposes the establishment of sector-specific reduction goals. These are international issues and the United States' participation is being negotiated and addressed at the national level.

We favor a national approach to “four-pollutant” emission policies rather than a State initiative.

Response: New York State recognizes the need to coordinate regionally and nationally to reduce emissions of greenhouse gases and address global climate change. As scientific evidence is amassed regarding the impact of greenhouse gas emissions and the need to reduce them, the State reserves the right to address the issue in the absence of an appropriate national response. Along with the current efforts to reduce emissions of sulfur dioxide and nitrogen oxides, New York supports efforts to reduce emissions of mercury and carbon dioxide. New York supports a “four-pollutant” approach provided it does not weaken or delay previous commitments to reduce currently regulated pollutants.

In Favor of Statewide Cap-and-Trade Program; Emissions Targets; Four-Pollutant Approach; PM 2.5 Studies

Marcia Slatkin

The State Energy Plan should set a cap on global warming emissions from power plants, reduce pollution, and increase the focus on renewable energy. Older power plants should be cleaned up.

Justin Green

I urge NYSERDA and the other agencies developing the State Energy Plan to set a cap for global warming emissions from power plants, reduce pollution, and increase investments in renewable energy, energy efficient technologies, and clean up of older, more polluting power plants.

David Leidig

I urge NYSERDA and the other agencies developing the State Energy Plan to set a cap for global warming emissions from power plants, reduce pollution, and increase investments in renewable energy, energy efficient technologies, and clean up of older, more polluting power plants.

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Rhonda Belluso

The State Energy Plan calls for a 50 percent reduction in sulphur dioxide emissions from power plants, we should call for a 75 percent reduction.

Environmental Advocates of New York

Along with four other environmental groups on the task force, Environmental Advocates urges the establishment of a statewide goal for greenhouse gas emissions reductions at ten percent below 1990 levels by the year 2012.

The electric sector has more cost effective opportunities than others for greenhouse gas emissions reductions. Accordingly, we urge the establishment of an enforceable cap on power plant greenhouse gas emissions at 30 percent below 1990 levels by the year 2017.

To this end, the rule making [Draft State Energy Plan] should establish a statewide cap-and-trade program for CO2 emissions from power plants.

New York City Environmental Justice Alliance

- New York should set a stricter standard, 75 percent or more for sulfur dioxide emissions.
- This standard should be part of a four-pollutant cleanup strategy.
- The levels of fine particulates, 2.5 microns or smaller, are already well above federal standards and suggestions by U.S. EPA.
- New York should cap power plant emissions of carbon dioxide at seven percent below 1990 standards.

Great Lakes United

New York State should set mandatory emission caps for all fossil fuel power stations to control nitrogen oxide, sulfur dioxide, carbon dioxide, and mercury. We call for closure of non-compliance stations by 2007. New York State should commit to specific greenhouse gas targets utilizing the four-pollutant approach.

Sierra Club Long Island Group, Environmental Advocates of New York

The Draft State Energy Plan should include a recommendation to phase in the clean up of four major pollutants: sulfur dioxide should be reduced another 75 percent; nitrogen oxides by 50 percent; mercury reduced by 90 percent; and a cap on CO2 to 30 percent below 1990 levels.

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Sierra Club, NYC Group

The Draft State Energy Plan should be revised to include clean up steps as follows: [1] reduce SO₂ by an additional 75 percent from current law, [2] NO_x by 50 percent, [3] mercury by 90 percent, and [4] cap CO₂ emissions. In order to reduce the State's impact on Global Warming, the Draft State Energy Plan should include a goal of reducing CO₂ emissions from the electricity-producing sector by at least 30 percent below 1990 levels.

New York State Sustainable Energy Coalition (NYS-SEC) et al.

The Draft State Energy Plan proposes a 50 percent reduction in sulfur dioxide emissions from power plants. New York should set the standard of 75 percent or stricter as a part of a four-pollutant clean-up strategy. The levels of PM 2.5 in New York City and other areas around the State are already well above federal standards.

The Energy Plan proposes carbon dioxide emissions limits with no specific numbers of goals. New York should cap power plant emissions of carbon dioxide at seven percent below 1990 standards as part of a four-pollutant cleanup strategy.

Stop the Barge

The Draft State Energy Plan proposes a 50 percent reduction in sulfur dioxide emissions from power plants. New York should set the standard at 75 percent or stricter. In addition to the acidification of New York's waterways, sulfur dioxide from power plant emissions leads to secondary formation of fine particulates (PM 2.5). The levels of PM 2.5 in New York City and other areas around the State are already well above federal standards.

Please set the sulfur dioxide standard at 75 percent or higher. The Draft State Energy Plan must protect our future as citizens and the health of the earth, not just the welfare of corporations.

Environmental Advocates of New York

The State Energy Plan should examine ways to reduce emissions from pollutants. For instance, there is the four-pollutant approach that has been talked about in the State. Those numbers should be modeled in this plan. Governor Pataki has indicated a four-pollutant approach to clean up power plants at the national level, but it would be of value to know what the effect for New York State would be.

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The U.S. Environmental Protection Agency (U.S. EPA) has indicated they will be regulating mercury from plants by 2007. That should be analyzed in New York to see what the effects will be and to model the emissions reductions as well as any reliability or price problems that might result.

Natural Resources Defense Council (NRDC)

It's very important, as the State moves forward, to develop innovative emission strategy for reducing pollutants, looking at all four pollutants including particulates.

UPROSE

The Draft State Energy Plan must also implement emission standards of PM 2.5 on all power plants.

Donna Lupardo

According to the U.S. Environmental Protection Agency (U.S. EPA) and the web site run by Environmental Advocates, in Broome County we have one of the dirtiest power plants in the country – A.E.S. Westover. It benefitted from the Clean Air Act loophole that let New York's twenty-one dirtiest power plants continue to pollute. I'm urging that the Energy Plan add something about cleaning up these old polluting power plants. The Energy Plan could recommend critical phase-ins of some clean-ups of these plants using a four-pollutant approach to reduce sulfur dioxide, nitrogen oxide, mercury, and carbon dioxide.

Lisa Catapano et al.

A energy plan should be drafted which reduces the harmful impacts of electricity production

Response: New York State currently has the strictest emission limits in the nation for NO_x and SO₂ from power plants and will continue to develop new strategies to reduce emissions from these sources. New York supports efforts to reduce emissions of mercury and carbon dioxide and supports a four-pollutant approach provided it does not weaken or delay commitments to reduce currently regulated pollutants. As data about the impact of the recently implemented emission cuts on the State's water and forest resources become available, New York will evaluate the need for additional reductions. In the interim, the State strongly supports the revision of federal emission standards to the same levels currently required in New York. The State Energy Plan includes strategies to reduce greenhouse gas emissions.

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As the U.S. Environmental Protection Agency revises its National Ambient Air Quality Standards for fine particulates (PM_{2.5}), New York will develop and submit federally enforceable State Implementation Plans to bring those areas of the State designated as non-attainment into compliance.

Ethanol and MBTE

New York State Petroleum Council

Methyl Tertiary Butyl Ether (MTBE) . The current initiatives of several states, including New York, to ban the use of MTBE in the near future, while maintaining the federal oxygenate mandate, may have serious implications for this State and may influence the forecasts for petroleum use both near and long term.

The federal oxygenate mandate. In its 1999 report, a U.S. Environmental Protection Agency (U.S. EPA) Blue Ribbon Panel called for a repeal of the oxygen mandate for federal reformulated gasoline. The American Petroleum Institute (API), of which New York State Petroleum Council (Petroleum Council) is a division, supported that recommendation. Subsequently a number of states, including New York, enacted legislation to ban the use of the oxygenate MTBE. A recent report prepared by the California Energy Commission expressed significant negative impacts from banning MTBE. The Petroleum Council believes some of the presumptions, forecasts, and assessments in New York's Draft State Energy Plan also may be significantly affected by the ban.

Boutique Fuels. The two percent reformulated gasoline federal oxygenate mandate has been a primary cause of the proliferation of boutique fuels, customized local gasolines. Boutique fuels make it more difficult for the petroleum industry to supply consumers, especially in tight supply situations, which can also lead to higher consumer prices. With little or no excess capacity, refiners do not have the flexibility to supply discrete markets, particularly in times of tight supplies or supply disruptions.

As a solution to the problem of boutique fuels, our industry recommends the repeal of the federal two percent oxygenate mandate and that regional fuel programs be developed.

In summary, in addition to emissions inventory impacts, the net air quality effect of removing the two percent oxygen mandate for reformulated gasoline and imposing a renewable fuels mandate should be carefully evaluated. To proceed otherwise may create

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an unstable petroleum market with increased vulnerabilities to supply disruptions and price spikes.

Response: New York State has enacted legislation which will phase out gasoline containing MTBE in 2004. The 1990 amendments to the federal Clean Air Act include requirements that areas in non-compliance with federal ozone standards use fuels containing 2 percent oxygen. Action by the federal government will be needed to waive or repeal this requirement. The State Energy Plan supports relief from the oxygenate requirements. See Section 2.3, Energy and the Environment.

New York Corn Growers Association

In section two on page 47 of the Draft State Energy Plan the first paragraph states, “the use of ethanol, however, raises new concerns such as the potential for higher VOC emissions.”

New York Corn Growers points out that there is no volatility problem with ethanol in New York. Ethanol does not have a one pound per square inch volatility tolerance in reformulated gasoline. All reformulated gasoline must meet the performance standards in the law including volatility control.

New York can also use the State Implementation Plan process to eliminate the volatility tolerances in conventional gasoline if they demonstrate that it is necessary for air quality. Beyond that, there is no volatility problem with ethanol.

Response: Use of ethanol as a gasoline additive has been demonstrated to raise the volatility of fuel. Gasoline containing ethanol may therefore require additional formulation changes in order to meet Reid Vapor Pressure specifications. Because of ethanol’s tendency to absorb water and other characteristics, it has traditionally been difficult to blend with gasoline at the refinery.

New York Corn Growers Association

In the same paragraph [page 47 of the draft State Energy Plan, first paragraph], the State Energy Plan states that, “ethanol would most likely have to be trucked separately from the production sites and be splash-blended at gasoline distribution centers.” New York Corn Growers points out that ethanol is not splash-blended but match-blended at the fuel terminal.

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Ethanol can be transported by truck, rail, or barge, depending on that particular facility. Most major terminals have rail siding for shipping gasoline-blending components that are not refinery blended.

Response: Because there is currently little ethanol production capacity in the Northeast, it is likely that ethanol would have to be shipped to regional distribution hubs, thus adding cost to gasoline. The term “splash-blended” has been removed from the State Energy Plan and replaced with the word “blended.”

New York Corn Growers Association

On page 47 of the draft State Energy Plan, “it is unlikely that the national ethanol production capacity exists to replace MTBE any time soon.”

New York Corn Growers points out that the total amount of MTBE used is approximately four billion gallons nationally. On an oxygen basis, only about two point four billion gallons of ethanol would be needed to replace MTBE. Current production capacity for ethanol exceeds two point two billion gallons and is growing. In a recent study, the California Energy Commission stated that ethanol capacity will exceed four billion gallons by 2004. There have been studies by the U.S. Department of Agriculture that indicate sufficient ethanol capacity to replace MTBE under a reasonable timetable.

Response: In 2001, the National Renewable Fuels Association stated that national annual ethanol production is 1.7 billion gallons, with the capacity for 2.3 billion gallons. Although the California Energy Commission does predict that ethanol capacity will soon reach 4 billion gallons, this capacity would be insufficient to meet national demands if California, New York and other large states all use ethanol to meet oxygenated fuel requirements. For this reason, California recently postponed its ban on MTBE for one year. Although ethanol capacity may increase to needed levels at some point, it is doubtful whether adequate capacity will be available to fully replace MTBE on a national basis in the short term.

New York Corn Growers Association

On page 47, section two, the State Energy Plan states, “ethanol may be difficult to remove from ground water as is MTBE.” To equate ethanol with MTBE or similar chemicals is erroneous. Ethanol has been in the environment and consumed by humans for thousands of years. Ethanol is rapidly biodegradable in surface water, ground water, and in soil. A recent study conducted by the Governor's Ethanol Coalition concluded that ethanol poses no threat to surface water and ground water. Furthermore, ethanol is the

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most harmless and biodegradable component of gasoline. When gasoline contaminates soil or water, ethanol is the first component to quickly, safely, and naturally degrade.

A study commissioned by the MTBE industry suggests that in the event of a gasoline spill or leak ethanol will break down and benzene would continue to persist in the environment. This ignores the fact that ethanol-blended fuels contain less benzene than gasoline and the real threat posed to the environment is from the presence of benzene in gasoline.

Response: The presence of ethanol and petroleum compounds in a mixed plume in groundwater can greatly complicate the overall remediation, *i.e.*, when a gasoline and ethanol mixture is released. One reason for this complication is the effect of co-solvency. The ethanol causes the petroleum compounds to migrate quickly, creating a more rapidly moving commingled plume. With MTBE and petroleum compounds, the plumes tend to separate and, by itself, MTBE moves more quickly.

Although MTBE is readily soluble in water, it can be removed from groundwater using activated carbon filtration. Similar technology would be employed to remove commingled ethanol from groundwater. The comment is correct in that soil microbes biodegrade ethanol before other constituents of gasoline. Benzene was used as an example, but the phenomenon occurs with other constituents of gasoline, as well. Ethanol, at extremely low concentrations, has been shown to have harmful impacts on the health of pregnant women.

New York Corn Growers Association

On page 47, the Energy Plan states, “that MTBE increases the octane rating of fuels and additives used to replace that octane, lost with the elimination of MTBE, could potentially increase the toxicity of fuels.”

Octane components do increase toxic emissions and the potency of those emissions. An analysis submitted to U.S. EPA on the California waiver request demonstrated that blending ethanol and gasoline will produce a cleaner fuel than using no ethanol.

Response: MTBE was originally added to gasoline as an octane enhancer. Removing MTBE from gasoline may require the addition of other additives to replace lost octane, and some of these additives can result in negative environmental and public health impacts.

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Marshah-Reaff Barrett

Why has the MTBE ban taken so long? Why wait until 2004? Will it be a hard ban or will it have exceptions?

Response: MTBE makes up a significant portion of fuel in areas (such as New York City) that are required to use reformulated gasoline. If the federal government maintains the oxygenate requirement, the only viable short term replacement will be ethanol. Time will be needed to develop the production and distribution infrastructure needed to supply the necessary levels of ethanol. Aside from the oxygenate issue, MTBE makes up approximately ten percent of the fuel supply in greater New York, and a replacement for this volume of fuel will be needed once MTBE is phased out.

General Comments on Emissions Reductions

Riverkeeper, Inc.

The State Energy Plan should recommend that any State initiative to combat global warming and air pollution exclude nuclear power.

Response: A major trend in electric generation in New York and throughout the Northeast is away from reliance on oil and toward increased use of natural gas. While natural gas is the fuel of choice because of its relatively clean air emission profile, increased reliance on natural gas will result in diminished diversity among fuels used for electric generation. Reduced fuel diversity increases the State's risk of exposure to fuel supply disruptions and price swings. Continued safe operation of the State's nuclear power plants, as recommended in the State Energy Plan, is an important element in ensuring the State's fuel diversity.

Cancer Action

There is a transition process that New York State DEC has developed whereby a facility, such as a coal-burning or wood-burning facility, can change to another fuel. You should be very cautious in allowing any of these dirty fuel transitions, in particular the particulate and the persistent organochloride increasing fuel transitions.

Response: The Department of Environmental Conservation requires stack emissions testing prior to authorizing a facility to use alternative fuels to ensure that emissions are below permitted levels. Levels vary depending on the type of facility.

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Cancer Action

It is incorrect in the State Energy Plan to cast the monitoring that occurs in New York State as somehow very careful and very complete and providing a clear picture of the quality of the air supply in St. Lawrence County. St. Lawrence County does not have any air quality monitoring network that functions, and the need exists because of its location directly across the St. Lawrence River from a very heavily industrialized zone of Ontario.

Enforcement should be an important part of the Energy Plan. Several facilities in the St. Lawrence area exceed their Clean Air Act regulated levels of emissions. New York State DEC does not conduct enforcement in a very stringent or uniform manner.

The Energy Plan should link fuel cost and electricity cost to the environmental record of the facility.

Response: New York State has an extensive air quality monitoring network. In northern New York State, monitoring of pollutants is conducted according to federal requirements for ambient air quality compliance monitoring for pollutants. Equipment is not sited in every county, but the network is sufficient to measure air quality throughout the state. The State makes every effort to conduct appropriate, uniform enforcement initiatives.

The Joint Supporters

Our public policy should encourage market participants to move toward cleaner technology by providing incentives for market players to replace old, dirty units with new, clean-burning units. We suggest that the Draft State Energy Plan consider a funding and incentive strategy for deployment of new, clean-burning units, *i.e.*, a swap out of all older generators smaller than ten megawatts in the Lower Manhattan zone and within twenty miles of Ground Zero.

We also recommend a tiered approach to environmental rules that acknowledges several levels of emissions. At one end of the spectrum would be ultra-clean renewable technologies, fuel cells, and CHP sources. The other end of the spectrum would be most heavily regulated and would consist of the old diesel standby units and gasoline powered emergency home generator units that produce the most emissions. Between these two extremes, we should recognize and appropriately regulate technologies that have proven to be far superior to the older emergency units but that fall short of the “ultra-clean” label

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Natural gas fired turbines, natural gas fired internal combustion units, and bi-fuel units, for example, should not be subject to the same restrictions as a gasoline fired home unit.

Response: The relative inefficiencies and cost of operating older dirtier power plants will provide an economic incentive to operate them less frequently, or replace them altogether. The Department of Environmental Conservation is currently developing a strategy to regulate distributed generation and combined heat and power in a manner which recognizes efficiency and environmental benefits of such technologies.

Old Lindenmere Civic Association

Some of the things that should be part of the State Energy Plan, Nassau County is located between Suffolk and the [New York] City, and we don't have regulations about carbon dioxide. Basically, the CO₂ regulations in Suffolk and the City are just a framework. They are not stringent. If the State would take the initiative it would help a lot.

In short, we think the State has to do a little bit more to monitor what is going on. We were successful in objecting to the power plant; we would like to see it cleaned up. It seems as if the State should be involved in all these things.

Response: The State does not currently directly regulate emissions of carbon dioxide, although an initiative is under way to create an accurate inventory of CO₂ sources. Reductions in CO₂ and other greenhouse gases will result from implementation of recommendations contained in the State Energy Plan and recommendations of the Governor's Greenhouse Gas Task Force. The State has an extensive program in place to monitor and regulate emissions from power plants.

North Fork Environmental Council

The section of the Plan that talks about environmental impacts really doesn't address environmental impacts. It just basically says, if you're building a gas-fired power plant, there aren't environmental impacts because you're building a gas plant and gas is one of the cleaner power plant technologies.

That is true, but that doesn't mean that there's not environmental impact.

The first sentence [of that section] says increased competition in the energy market would not have an undue adverse impact on the environment as compared with traditional industry regulation, because environmental oversight continues and mitigation

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is implemented. What that means is that merchant plants are coming in an uncoordinated manner, often trying to circumvent the Article X process by using smaller turbines, which this plan actually encourages, and those do have an impact. There are a lot of new plants, and they have a big impact.

New York Public Interest Research Group

New York should not move forward with the building of new facilities until there's an adequate plan in place, especially with the proposed building of ten new turbine generators here on Long Island. These generators completely circumvent the Article X process by siting two plants on some sites that are designated for 80 megawatts. This problem is going to continue unless there is a plan that specifies specific actions that Long Island Power Authority has to adhere to, and currently they do not have to adhere to the Energy Plan.

Response: All facilities that locate in New York are subject to federal and State requirements to mitigate environmental impacts. New York has the most stringent air pollution control requirements on power plants in the nation. Proposed facilities of less than 80 megawatts generating capacity are not subject to the requirements of Article X, but they must nevertheless still receive appropriate air and water permits. The sentence referred to in the Energy Plan that concludes “. . . increased competition in the energy market would not have undue adverse impact on the environment as compared with traditional industry regulation . . . “ is based on extensive modeling work performed during the State's initial stages of restructuring. The finding is believed to be still valid today.

All State agencies, authorities, commissions, and boards must act in reasonable consistency with the State Energy Plan. Article 6 of the Energy Law requires that “Any energy-related action or decision of a State agency, board, commission or authority shall be reasonably consistent with the forecasts and the policies and long-range energy planning objectives and strategies contained in the plan, . . . “ If a State entity acts in a way that is contrary to the plan, it must demonstrate that the “relevant provisions of the plan are no longer reasonable or probable. . . .”

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**Greenhouse Gas; Acid Deposition
Reduction Program; Emissions Registry**

Center for Clean Air Policy

The first step in limiting our contribution to global warming is to know how much and how energy is being used in the State. To do this requires a mandatory accounting system that requires reporting of all sales of energy to consumers and release of process greenhouse gas (GHG) emissions. Many of the necessary elements are already in place but to create a comprehensive record of energy use and its climate change impacts requires additional mandatory data reporting such as home heating oil, natural gas, and gasoline sales.

Response: New York State recognizes the need to create an accurate inventory of greenhouse gas emissions as a critical step to developing strategies to reduce them. See recommendations in the State Energy Plan, Section 1.3, Energy Policy Objectives and Recommendations, and Section 2.3, Energy and the Environment.

Center for Clean Air Policy

The next step is to establish a statewide target for reducing greenhouse gas (GHG) emissions. New York should set its own targets for both near-term and long-term reductions in State-generated GHGs.

Response: The State Energy Plan includes goals to reduce emissions of greenhouse gases, and strategies to achieve these reductions.

Center for Clean Air Policy

New York's current acid rain initiative should be expanded to include a cap on CO₂ emissions from the electric power sector. By the State's own estimates, additional reductions in NO_x and SO₂ will benefit the forests and water bodies and also reduce CO₂ emissions. To ensure that these emissions benefits are not eroded by growth in electricity demand, the State should institutionalize these benefits through a declining cap on CO₂.

Response: The State Energy Planning Board concurs that a “cap-and-trade” program provides an efficient and cost effective means for meeting air quality goals. Such programs are of limited effectiveness if they are not offered on a regional basis, especially with regard to greenhouse gas emissions. The Board also believes that the recommendations for greenhouse gas emissions reductions in the Energy Plan address the concerns raised regarding expanding the Acid Deposition Reduction Program.

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Center for Clean Air Policy

With deregulation of the electricity industry, the State no longer has the same level of control over how much or where generation is likely to be built. But the emissions from these plants are still under control and, as the State recognized in its recent Acid Rain Initiative, can be most cost-effectively managed through a sector- or economy-wide cap and a market for trading emissions allowances. Long-range, multiple-pollutant caps provide substantial long-term cost savings compared to a pollutant-by-pollutant regulatory system.

Response: Strong economic incentives to reduce emissions of greenhouse gases already exist. Because the designs of older power plants are generally more inefficient than modern power plants, they offer the potential for emissions reductions of greenhouse gases and other pollutants. As new, more efficient power plants are sited, older facilities will not be dispatched as frequently and a significant reduction in emissions of greenhouse gases should result. The State has implemented a cap-and-trade program for other regulated pollutants.

Environmental Defense

The State's energy policy as set forth in the Draft State Energy Plan should be to pursue regulatory and economic incentive actions that will result in a significant reduction in emissions of both greenhouse gas (GHG) and regulatory pollutants over the next five to ten years.

In the electric utility sector, the State can and should consider adoption of a cap-and-trade program, with incentives for steadily increasing efficiency in electrical generation and renewables.

Environmental Advocates of New York

Older plants should be the target for reductions in greenhouse gas emissions. Governor Pataki's acid rain reduction program would yield as much as ten percent reduction in greenhouse gas. The target for power plants, specifically, we believe, should be a 30 percent reduction. The transportation and other aspects of the State's energy system could make up the remainder of the target.

Annie Wilson Miquet

The U.S. government has backed out of the Kyoto agreement. As a State, we could voluntarily implement the Kyoto agreement, thus reducing the greenhouse gases to the 1990 levels.

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Response: The Energy Plan includes goals and strategies for reducing emissions of greenhouse gases. See Section 1.3, Energy Policy Objectives and Recommendations, and Section 2.3, Energy and the Environment.

Diane A. Davis

Newer and more stringent environmental regulations associated with fossil fuel burning are costly to write and enforce. The costs deter and discourage corporations from siting their headquarters and manufacturing plants in New York State. This translates into a loss of jobs as well as corporation tax and sales tax on goods and services produced in New York State.

Response: New York is committed to both protecting the State's natural resources and fostering economic development and growth as evidenced by recommendations contained in the State Energy Plan. Although such regulations can add costs and increase the price of power, limiting the damaging effects of power plant emissions can also promote economic growth in sectors such as the tourism industry.

Jo Ann Arcarese

The State Energy Plan should set a cap for global warming emissions for power plants, reduce pollution from other sources, and increase investments in renewable energy.

The State Energy Plan should:

- Meet or exceed the emission reductions in the Kyoto Protocol throughout the State
- Reduce particulates, CO₂, SO₂, nitrogen oxides, and mercury from power plants
- Promote regulatory incentives that encourage utilities to work with customers to increase efficient energy use
- Reduce CO₂ emissions from vehicles and public transportation.

Peter Zadis

The plan must reduce emission particles from inefficient, older power plants, and must promote regulatory incentives. The State Energy Plan must address carbon dioxide emissions from cars and trucks.

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The University at Binghamton

We encourage a major effort to coordinate DEC air permitting with United States Environmental Protection Agency (U.S. EPA) air permitting and to simplify the language of DEC documents.

Alexander Ewing et al.

The State Energy Plan needs to be more specific in actions necessary to reduce greenhouse gases, build renewable energy markets, reduce pollution emissions from power generating facilities, and increase the inventory of clean vehicles in the State.

Response: The State Energy Plan includes greenhouse gas emission reduction goals and strategies for achieving them. NYSERDA has implemented several incentive programs to encourage the development and use of renewable fuels. New York already has some of the most stringent requirements in the nation for power plant controls on NOx and SOx. The State supports a “four-pollutant approach” to emissions reductions provided it does not weaken or delay previous commitments made by other states to reduce currently regulated pollutants. The State supports increased efficiency in automobiles, but such standards are regulated under the federal Corporate Automobile Fuel Efficiency (CAFE) program. The State Energy Plan includes descriptions of several programs that have reduced emissions from public transit fleets.

Tom Salo

State Energy Plan should include a statewide carbon dioxide target set at ten percent below 1990 levels and include a plan to meet the target. A carbon dioxide cap should be set for power plants at 30 percent over 1990 levels (15 year target).

Response: The State Energy Plan includes greenhouse gas emission reduction goals and strategies for achieving those goals.

The University at Binghamton

We encourage a major effort to coordinate DEC air permitting with United States Environmental Protection Agency (U.S. EPA) air permitting and to simplify the language of DEC documents.

Response: Although implemented by New York, the Title V permitting program for major stationary sources of air pollution is a federal program. All Title V permits prepared by the State must be reviewed by U.S. EPA prior to issuance. As a result, the State program is completely coordinated with the federal program. New York also does

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have other permitting programs for smaller sources of air pollution not covered by federal permitting requirements.

Alexander Ewing et al.

Supports the purchase of green power and establishment of a target in reducing greenhouse gas emissions.

Joel Tyner

Supports the provisions of the State Energy Plan that move New York towards the purchase of green power and the establishment of a target for reducing greenhouse gas emissions. The plan needs to be more specific in actions needed to reduce greenhouse gases, build renewable energy markets, reduce pollution emissions from power generating facilities and increase the inventory of clean (alternative) vehicles in the State.

Environment Advocates of New York

We hope that the State Energy Plan includes some specific greenhouse gas emission targets. We think that New York should have the goal of a ten percent reduction in greenhouse gas emissions from 1990 levels by 2012.

Response: The State Energy Plan includes specific greenhouse gas emission reduction goals and strategies for achieving those goals.

Niagara Mohawk Power Corporation

We suggest that to identify realistic greenhouse gas (GHG) reduction targets, an inventory of existing emissions is necessary. This data base would include all GHG resources, not just sources from the electric generation sector of the economy. Transportation, energy efficiency in buildings, waste management, forestry management, and other fossil fuel uses contribute to GHG emissions or the sequestration of carbon.

The collection of this data should be as non-intrusive as possible, maximizing use of existing data wherever possible. Targets should be realistic and compatible with national and regional goals and follow a time frame so that New York State industry is not at a competitive disadvantage during new command and control regulatory requirements.

Response: New York State recognizes that the need to create an accurate inventory of greenhouse gas emissions is critical to developing strategies to reduce them as evidenced in the State Energy Plan's recommendations. Reporting requirements used to

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create such an inventory should be as non-intrusive as possible, and should include all sectors that contribute greenhouse gas emissions. New York State also recognizes the need to coordinate regionally and nationally to reduce emissions of greenhouse gases and address global climate change.

Environmental Energy Alliance of New York

There is no mention in the State Energy Plan that the trading system proposed in the Acid Deposition Reduction Program (ADRP) will be restricted only to New York State sources. The assumptions used for the ADRP analyses should be described in the Energy Plan's modeling analysis.

Response: The ADRP initiative allows New York State sources to use allowances obtained from other states to meet all federal requirements. The program imposes additional requirements that go beyond the federal program and allow sources to trade with other New York facilities to meet those requirements.

Cooling System Upgrades; Fish Kills

Riverkeeper, Inc.

Five existing power plants on the Hudson River use antiquated 1950s era once-through cooling technology. These five use approximately five billion gallons of Hudson River water per day. In the process they slaughter millions of adult and juvenile fish, eggs, and larva. The response by New York State to this tragedy, and, specifically, the response in the 2002 State Energy Plan is wholly inadequate.

In addition, the Draft State Energy Plan misstates the law. Existing plants are required by federal law to use the best available technology to minimize adverse environmental impact. From reading the plan, one get the impression this applies only to new plants. This is not the case.

Most galling of all in the State Energy Plan is the claim that since 1998 significant gains in reducing environmental impacts have been achieved by the State. With regard to the State's most important river, nothing can be further from the truth. Permit renewals are now ten years overdue. There has been no change in the technology of these plants or the operating conditions.

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Retrofitting cooling towers, which is the most significant way to drastically reduce the impacts of these plants, are mentioned in the Draft State Energy Plan simply as an afterthought.

The Draft State Energy Plan, instead, in the environmental impact section, with regard to aquatic impacts, caps DEC's work in cost savings and plant efficiency. It seems obvious that, at least at the highest levels of government, these are the State's primary goals, at the expense of our precious and irreplaceable natural resources.

The Draft State Energy Plan fails to devote adequate attention to the enormous fish kills at existing power plants. Less than one and one-half pages of text are devoted to the aquatic impacts of steam driven electricity power generation. Water quality impacts – particularly the massive fish kills caused by cooling water intakes – should have been addressed much more comprehensively in the Energy Plan.

The Draft State Energy Plan fails to acknowledge the complete failure to mitigate fish kills at existing power plants. The response to this environmental tragedy by New York State and the Draft State Energy Plan is wholly inadequate.

Sierra Club, NYC Group

Modernization of the cooling systems should be mandated in the plan to reduce the heated water impacts on the environment.

Sierra Club Long Island Group, Environmental Advocates of New York

Furthermore, the outdated plants use millions of gallons of river water every day. We therefore include a recommendation to modernize cooling systems and minimize water use.

Response: The State Energy Plan includes a discussion of measures to mitigate impacts on fish in power plant water cooling structures. (See Section 2.3, Energy and the Environment.) New York is a leader in this regard and will continue to require all power plants to take measures to the greatest extent practical to reduce fish mortality through impoundment and impingement. The Energy Plan provides broad statewide energy policy guidance and does not single out specific local resource issues that are more appropriately dealt with directly by the State agencies and departments that have authority and jurisdiction over them.

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Environmental Miscellaneous

Natural Resources Defense Council (NRDC)

The State needs to provide greater leadership on these issues at the federal level so we can solve these problems nationally. It's extremely important that the federal government not roll back the new source review provisions.

Response: The State works closely with the federal government in addressing these issues and has communicated its support for new source review to the appropriate officials.

Honorable Paul Feiner, Supervisor, Town of Greenburg

New York should provide incentives to localities that commit to making our communities greener (*i.e.*, give localities additional funding for the acquisition of open space).

Response: York State has numerous programs to protect and enhance open space. These include land acquisition programs, the New York State Clean Water/Clean Air Bond Act, and the Environmental Protection Fund. The State also works with local governments to identify important parcels and help secure them through titles and easements.

Rhonda Belluso

The acidification of water sources needs to be addressed in the State Energy Plan.

Response: The acidification of water bodies in New York State is addressed in the State Energy Plan in Section 2.3, Energy and the Environment.

Key Span, New York

Key Span thinks raising the SEQRA limit to one hundred megawatts would be a realistic approach. We don't see any compelling reason not to raise the SEQRA limit from eighty megawatts to a hundred megawatts.

Response: The existing threshold of 80 megawatts for Article X review of proposed electric generating facilities has been characterized as being both too low and too high. As a matter of State law, the Energy Planning Board supports the 80 megawatts threshold. Action of the State Legislature would be required to raise it. It should be noted that lower limits for SEQRA vary and are set by localities.

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Sierra Club, NYC Group

With respect to the dams, New York State and New England have many old dams that are not being used, that are blocking the return of fish like the salmon and the trout. You are urged to focus on dam removal, all unnecessary dams as quickly as you possibly can because we are losing species that are also threatened by fish farming and escapees. These dams are blocking their natural regeneration cycle. Provide payment to the landowner for the removal. An awful lot of people will say, be my guest, I don't want it.

Response: The Department of Environmental Conservation has an extensive Dam Safety program and requires owners to safely maintain dams or remove them. Removal of dams may also result in environmental impacts, as contaminated sediments trapped behind dams can become resuspended once the structure is removed. In some cases, dams do create an obstacle to migration of fish species. In some cases, fish ladders or other technologies can mitigate these impacts.

Steve Davis

Light pollution should be addressed, and NYSERDA should take the lead by writing a light pollution law.

Response: Light pollution mitigation measures have been considered by the State Legislature. Turning off unnecessary lighting can have several benefits including lower energy costs and lower impacts on surrounding communities. In many cases, the desire to eliminate or reduce lighting must be balanced by safety and security issues.

James Little

I come from a family of sportsmen and we're concerned about contaminations such as PCBs and mercury in the environment. Thirty percent of the lakes in the Adirondacks have no life because of acid rain from dirty power plants. Additional legislation should be introduced to hold homeowners and business alike to conserve energy, to meet a certain level of energy efficiency. The government's role should be enforcement and fines for nonconformance and assistance in the form of grants, loans, and programs. Businesses and homes need to be insulated better, alternative energy invested in government buildings, and more money allocated toward research by universities for energy solutions.

Response: New York State is taking active measures to reduce the impacts of PCBs, acidic deposition, and other forms of contamination. The State also has numerous programs designed to promote energy conservation and efficiency, as well as

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development of new technologies to meet these goals. These are referred to in several sections of the Energy Plan.

The current State building codes do in fact require new and substantially renovated buildings, including homes, to meet or exceed certain levels of energy efficiency. The Code is currently under review, and revisions are expected to be adopted in summer 2002. These revisions will significantly raise the requirements in terms of energy performance of new and substantially renovated buildings.

With the advent of the utility-funded System Benefits Charge (SBC) program in 1998, many new government energy efficiency programs were begun. For more details, see Section 3 of the State Energy Plan.

Great Lakes United

The Draft State Energy Plan should specifically commit to no drilling or transport of oil or gas underneath the Great Lakes or on sensitive public lands.

Response: New York State has several programs to ensure that any activities designed to recover or transport mineral resources are done so in a way that minimizes impacts on the environment. Drillers must be certified and, in many cases, post bonds to ensure that the environment is not harmed during drilling or extraction operations. Similarly, pipelines must undergo extensive review and permitting before they can be sited or built. It is premature at this time to undertake any commitments with respect to this issue.

Consumers Union

The State should ensure the protection of New York's environment. The State should complete a proper Environmental Impact Statement. We find the Environmental Impact Statement to be grossly inadequate because:

- It failed to analyze the economic impacts of increased prices for electricity post-restructuring, including job and monetary losses.
- It failed to analyze the environmental impacts of allowing solely market decisions on power plant siting and construction.
- It failed to analyze the environmental impacts of the growth in greenhouse gas emissions predicted by the planned increase in electric generation.

Response: The Environmental Impact Statement was prepared in conjunction with the State Energy Plan and meets the requirements of the State Environmental Quality Review Act. That being said, the economic impacts of increased prices for electricity are

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included in the State Energy Plan, Section 2.2, Energy and Economic Development, and analyses of the environmental impacts of both market decisions and greenhouse gas emissions are included in the Electricity Assessment, Section 3.4 of the Energy Plan.

Tompkins County Environmental Management Council Energy Committee

On page 2-40 of the draft State Energy Plan, the discussion of diesel particulate filters is misleading. It is not until the next section that it is mentioned that these filters only work with low-sulfur diesel, which is generally unavailable.

Response: The discussion on diesel particulate filters have been revised to clearly indicate that the technology requires ultra-low sulfur fuels. The federal government has issued regulations requiring all diesel fuels to meet this standard in 2006, and the New York Metropolitan Transportation Authority has secured such fuel for its entire fleet of some 4,000 buses.

Wedlyne Guerrier

Regarding “Energy and the Environment,” page 2-37 of the draft State Energy Plan, the Clean Air Act started to monitor ambient air pollutants in 1990. This is the year 2002. The State Energy Plan should explain why New York State does not have a completed National Ambient Air Quality Standards report.

Regarding “Energy and the Environment,” pages 2-41 through 2-43, the State Energy Plan should explain the logic behind separating emissions limits into sections. This does not make sense. Emission levels should remain the same throughout the year, starting in July 2002, rather than waiting for full implementation until January 2008.

Response: The federal government initiated requirements to establish monitoring networks for certain air pollutants in the 1970 federal CleanAir Act. This measure also included requirements that areas that failed to comply with National Ambient Air Quality Standards develop and implement plans to come into compliance. This legislation has been revised several times since its original enactment, including the most recent revisions in 1990. The New York State Department of Environmental Conservation provides extensive air quality data on its website at www.dec.state.ny.us. Annual Air Quality reports are also available at this site after the data has undergone quality assurance.

The seasonal variations on air pollution control requirements in New York and across the nation stem from the fact that ground level ozone, a pollutant of most concern

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in New York, is primarily a summertime problem. Emission reduction strategies designed to reduce summertime problems are oriented towards seasonal controls. Other pollutants that are more annual in nature, such as carbon monoxide or acid rain, require year-round control strategies.

Tire Burning

Green Party Erie County

Regarding tire burning, no environmental impact statement has been done on tire burning. We need to address tire burning as an issue by itself. We need hearings on it to determine if this is a good thing or not.

The University at Binghamton

Tires should be considered renewable energy and included in the State Energy Plan.

Response: The Energy Planning Board does not consider tires to be a renewable energy resource. Substantial national data exists on the emissions from the recovery of energy from tires. Much of the data is from co-firing scrap-tire-derived fuel with coal and shows lower emissions than from firing coal alone. Given New York State's problem of unabated scrap tire piles, the generation of about twenty million scrap tire equivalents annually in our State, the inherent negative value of a scrap tire, and the benefit of reducing reliance on foreign oil, the recovery of energy from scrap tires represents one of the more economically sustainable markets for scrap tires.

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