



**TESTIMONY OF EARTHJUSTICE BEFORE THE JOINT HEARING OF THE  
SENATE FINANCE AND ASSEMBLY WAYS AND MEANS COMMITTEES  
REGARDING THE FISCAL YEAR 2025-26 ENVIRONMENTAL AND ENERGY  
BUDGET PROPOSALS**

**January 28, 2025**

Good afternoon, my name is Liz Moran, and I am the New York Policy Advocate for Earthjustice. Thank you for the opportunity to testify today on the Governor’s SFY2025-26 energy and environment budget proposals. Earthjustice, as the nation's first and largest national nonprofit environmental law organization, brings far-reaching change by enforcing and strengthening environmental laws on behalf of hundreds of organizations and communities, whether that is in courtrooms, congress, or state houses. We are dedicated to defending the right of all people to a healthy environment, protecting our magnificent wild places and species, and fighting to curb climate change.

With a worsening climate crisis, and a new federal administration executing a vision to benefit wealthy corporate polluters that will harm the wallets and health of regular people, leadership from states like New York is urgent. Below, and detailed further in the subsequent sections of our testimony, Earthjustice has outlined ways the legislature can make the SFY2025-26 budget, and the legislative session, one that improves the lives of New Yorkers and sets a standard for the nation to follow:

- **Make bold climate and environmental investments**
  - **Increase climate funding** – The Governor’s budget proposal includes a \$1 billion climate fund (the “Sustainable Future Program”), with planned spending to take place over 5 years (\$200 million annually). We urge the legislature to increase funding substantially and to specify programs to receive funding.
  - **Include \$600 Million for the Clean Water Infrastructure Act (CWIA)** – The Governor’s proposed budget includes \$500 million for the CWIA but needs far outpace available funding and is overdue for an increase. Earthjustice supports the Governor’s proposal to authorize funding from the CWIA for private well testing and remediation, which is another of many reasons funding should be increased.
  - **Include \$500 Million for the Environmental Protection Fund (EPF)** – The Governor’s proposed budget includes \$400 million for EPF but many programs are oversubscribed. Increased funding would help ensure needs are met.
- **Pass the NY HEAT Act in the budget** – This legislation would save New Yorkers money off their energy bills while cutting climate pollution. With energy bills increasing across the state, New Yorkers need a solution that tackles energy affordability while allowing for a transition away from the expensive and dirty gas system.
- **Pass the Clean Deliveries Act** – This legislation would, among other things, establish emission reduction plans for “mega-warehouses” used primarily to facilitate e-commerce deliveries to residences.
- **Protect New Yorkers from toxic forever chemicals (PFAS)**

- **Protect firefighters from PFAS** – Earthjustice is encouraged by the Governor’s proposal to ban PFAS in firefighting equipment and gear. Any policy must also ensure firefighters are not exposed to equally or more dangerous chemical substitutions.
- **Protecting People, Farmland, and the Environment from PFAS Biosolids** – Earthjustice urges the legislature to pursue policy that fills a regulatory void and prevents PFAS biosolids from being spread on land.
- **Prevent hunger and food waste**
  - **\$340 Million for Universal Free School Meals** – Earthjustice is excited to see this commitment to provide free breakfast and lunch meals to all students regardless of their family’s income, helping reduce food insecurity and costs for families.
  - **Uniform food date labeling** - New York should follow California’s lead and take action to require companies to use uniform terms to communicate food quality dates and safety dates and to educate consumers about their meanings. This presents a great opportunity to help consumers save money while reducing the environmental impacts of food waste.

Rising fossil fuel energy bills, wildfires, heat waves, hurricanes, and flooding – each year, this is the reality New Yorkers are facing due to the worsening climate crisis. A snapshot of this in just the past year:

- Inflation alone increased the cost of gas to heat homes this winter by 14%<sup>1</sup>
- Utilities like ConEd, National Grid, Central Hudson, National Fuel, and more continue to hike rates across the state, as much as \$60/month<sup>2</sup>
- In November, wildfires torched 6,000 acres in the Hudson Valley, Catskills, and parts of New York City<sup>3</sup>
- New Yorkers experienced three heat waves, making the summer one of the hottest on record<sup>4</sup> – heat is the greatest weather-related killer
- New Yorkers experienced a record number of tornadoes in July<sup>5</sup>

The same week the 2025 legislative session began, news broke that 2024 was not only the hottest year in recorded history, but the first year to exceed 1.5 degrees Celsius, a scientifically acknowledged dangerous degree of warming.<sup>6</sup> If global average temperatures continue above 1.5 degrees of warming it will mean increased deaths, increasingly frequent extreme weather events (like New York has already been seeing), sea-level rise, loss of species, and other likely irreversible changes to our planet’s systems.<sup>7</sup>

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<sup>1</sup> <https://www.newsday.com/business/inflation-consumer-price-k9ua97gy>

<sup>2</sup> <https://www.amny.com/news/new-yorkers-to-see-national-grid-rate-hikes/>

<sup>3</sup> <https://nysfocus.com/2024/11/26/new-york-wildfires-climate-change-firefighters>

<sup>4</sup> <https://bronx.news12.com/2024-has-brought-a-years-worth-of-90-degree-heat-to-nyc>

<sup>5</sup> <https://www.wskg.org/regional-news/2024-07-23/new-york-experienced-a-record-number-of-tornadoes-in-july-the-link-to-climate-change-is-inconclusive>

<sup>6</sup> Seth Borenstein, “Earth breaks yearly heat record and lurches past dangerous warming threshold,” AP News, January 10, 2025, <https://apnews.com/article/climate-change-warming-hot-record-2024-disasters-12f899f071fcd051ad49a872611e92>

<sup>7</sup> “1.5° C: What it Means and Why it Matters,” United Nations, accessed January 24, 2025, <https://www.un.org/en/climatechange/science/climate-issues/degrees-matter>

A pattern of climate-induced impacts in New York has become extremely apparent. The story of 2023, now the second hottest year in recorded history, has a very similar series of events to what was experienced in 2024.<sup>8</sup> New Yorkers were inundated with unprecedented events, like the most dangerous air quality ever experienced in the U.S. for multiple days from Canadian wildfires, which turned the sky orange and kept people indoors,<sup>9</sup> flooding so severe that hundreds of people were left stranded from inaccessible transportation,<sup>10</sup> and unseasonal heat waves, causing parents to be distressed about unsafe conditions for children in their schools.<sup>11</sup>

All of this will only get worse with the new federal administration, which on day one has begun to execute their clear vision to protect and incentivize the oil and gas industry and other large, wealthy corporate polluters. The consequences of this administration will be far reaching for New York, raising costs for everyday people, increasing pollution, and job loss – unless the State steps up. Unfortunately, despite the Governor’s own acknowledgement of the urgency of the climate crisis and the economic benefits that are spurred by action, the executive budget proposal is visionless.

New York businesses, workers, and residents are counting on the legislature to deliver on the issues they care about with a budget that ensures affordable energy, protects public health, cuts pollution, and creates good jobs. No one voted for dirty air and water. To the contrary, time and time again New Yorkers show their broad support for actions to fund and protect the environment.<sup>12</sup>

Our testimony includes pertinent information about what is needed to ensure New York’s climate law mandates are met, energy affordability, preventing exposure to toxic chemicals, how to reduce food waste and hunger, and more.

### **Climate and Environmental Funding**

The climate crisis is already costing New Yorkers and making their daily lives harder – whether it’s from extreme weather events, health expenses, or the rising costs of energy bills from our dependence upon fossil fuels. Climate change is also exacerbating other issues in the state, like New York’s aging and deteriorating water infrastructure. Not only that, but New York still needs to respond to alarming levels of childhood lead poisoning, ongoing contamination from PFAS and other dangerous unregulated chemicals, and a range of other chronic environmental challenges. With the new federal administration already rolling back climate and environmental protections, New York needs a budget with significant investments to prevent communities from being impacted and takes us forward.

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<sup>8</sup> Lauren Sommer, Rebecca Hersher, “2023 was the hottest year on record. Is this how it’s going to be now?,” NPR, January 9, 2024, <https://www.npr.org/2023/12/28/1221827923/2023-hottest-year-record-climate-change>

<sup>9</sup> Gloria Oladipo, “New York City faces lower air quality from Canada wildfires,” The Guardian, October 2, 2023, <https://www.theguardian.com/us-news/2023/oct/02/new-york-city-air-quality-smoke-canada-wildfires>

<sup>10</sup> Mike Goodwin, Joshua Solomon, “Amtrak, Metro-North resume travel on tracks that flooded,” Times Union, July 12, 2023, <https://www.timesunion.com/news/article/amtrak-schedule-shows-train-running-rensselaer-nyc-18196370.php>

<sup>11</sup> Hilary Howard, “Back to School or Back to Summer? A Heat Wave Arrives Late to New York,” The New York Times, September 7, 2023, <https://www.nytimes.com/2023/09/07/nyregion/nyc-heat-wave.html>

<sup>12</sup> <https://www.nytimes.com/interactive/2022/11/08/us/elections/results-new-york-proposal-1-issue-climate-change-bonds.html>



Investments into climate action and environmental protections not only help to cut costs, protect public health, and reduce pollution – these investments also often create good jobs. New York has a substantial green economy. A 2022 report from the New York State Comptroller found that the number of jobs influenced by the green economy in New York exceeded one million in 2019 and 2020.<sup>13</sup> According to NYSERDA, as of 2022, there are 171,000 workers in the clean energy field.<sup>14</sup> The new federal administration’s allegiance to the oil and gas industry and other corporate polluters will prevent significant opportunities for economic growth. As one example, the President has already issued an order to suspend approvals for offshore wind projects, which stands to jeopardize the creation of an estimated 14,000 jobs in New York.<sup>15</sup>

Investments into climate and our environment should be understood as a prevention mechanism from even greater expenses down the road. *The cost of inaction is greater than the investments necessary to meet New York’s climate goals* – according to the Final Scoping Plan, by more than \$115 billion.<sup>16</sup> But the cost benefits of proper investment are tremendous. The Final Scoping Plan estimated the creation of enough jobs to outnumber potential displaced jobs by a ratio of ten-to-one in 2030. According to an earlier report from the Climate Action Council, net benefits of meeting New York’s CLCPA mandates are in the range of \$80-\$150 billion.<sup>17</sup> Additionally, public health benefits range from \$160-\$170 billion.

The Governor’s indefinite delay to the implementation of cap-and-invest (which we discuss in detail later in this testimony) is a major blow to implementing New York’s landmark climate law, the Climate Leadership and Community Protection Act, and a lost opportunity to generate substantial revenue that would benefit people and their communities. In its place, the Governor proposed a \$1 billion climate fund, to be spent in \$200 million increments over 5 years; however, this falls far short of demonstrated needs. New York’s Climate Scoping Plan estimates \$11 billion will need to be spent annually starting in 2030.<sup>18</sup> The price tag to weatherize and electrify residential homes alone has an estimated \$5.69 billion annually between 2025 and 2035.<sup>19</sup>

The legislature should substantially increase climate funding and make clear where that funding will go. Additionally, the legislature should increase funding for two demonstrably successful programs: the Clean Water Infrastructure Act and the Environmental Protection Fund.

### *Make Bold Investments into Climate*

New York’s landmark climate law, the Climate Leadership and Community Protection Act (CLCPA) includes necessary legal mandates to achieve net-zero greenhouse gas emissions by 2050, including goals of seventy percent of New York’s electricity to be provided by renewable energy sources by 2030, and one-hundred percent zero-emissions energy by 2040. Following passage of the law, the State developed a comprehensive Climate Scoping Plan, which involved

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<sup>13</sup> <https://www.osc.ny.gov/press/releases/2022/02/green-economy-boosts-job-growth-new-york>

<sup>14</sup> <https://climate.ny.gov/Our-Impact/Growing-Economic-Opportunities>

<sup>15</sup> <https://nysfocus.com/2025/01/23/donald-trump-offshore-wind-executive-order-new-york>

<sup>16</sup> New York State Climate Action Council, “Scoping Plan December 2022: Executive Summary,” page 5, accessed January 31, 2024, <https://climate.ny.gov/-/media/Project/Climate/Files/Chapter1ExecutiveSummary.pdf>

<sup>17</sup> New York State Climate Action Council, October 14, 2021 meeting presentation, page 34 <https://climate.ny.gov/-/media/Project/Climate/Files/2021-10-14-CAC-Meeting-presentation.pdf>

<sup>18</sup> New York’s Climate Scoping Plan, Page 131, available: <https://climate.ny.gov/resources/scoping-plan/>

<sup>19</sup> <https://www.switch.box/nyci> “How much would it cost?”

significant stakeholder and public input. The Scoping Plan includes a detailed economic analysis, finding that there will need to be significant annual investments, to the tune of billions, in an to meet the law’s mandates. The Plan also demonstrates that financial benefits to New Yorkers and our economy far exceeds upfront investments.

To that end, cap-and-invest would serve dual purposes – it would enable the Governor and DEC to fulfill a statutory requirement to implement regulations for our climate law, while also generating much needed revenue to meet the law. An analysis from Switchbox found that a cap-and-invest program could accrue revenue between \$5.5 - \$11.4 billion a year, depending on program design.<sup>20</sup> The analysis also found investments from cap-and-invest “can drive decarbonization, support community economic development, and save households money on energy bills—and that higher carbon pollution prices significantly enhance these benefits without burdening economically vulnerable New Yorkers.” Unfortunately, after years of stakeholder engagement, the Governor announced in her State of the State book that cap-and-invest would be indefinitely delayed.

The legislature cannot allow this ill-advised decision to hamper the state’s ability to meet its climate law – the law created and championed by the legislature. Increasing climate investments above the Governor’s proposal of \$200 million annually for five-years is key to ensuring the state stays on track with our climate law.

Earthjustice offers the following as a few recommendations for climate investments:

- **Home Electrification Programs for Low- and Moderate-Income New Yorkers Can Advance Early Action in DACs and Protect Affordability:** Programs to assist low- and moderate-income households to electrify their homes can be deployed quickly using available technology and will help the state reach CLCPA emission reduction mandates. Buildings are the largest source of greenhouse gas emissions in New York, and to achieve CLCPA mandates nearly all existing buildings will need to replace heating systems and other appliances that use methane gas or home heating oil. According to the Scoping Plan, to achieve this transition, New Yorkers need to be retrofitting at least 250,000 homes each year for heat pumps and energy efficiency by 2030 and to continue this level of electrification over the next two decades.<sup>21</sup> The plan recommends that the state “invest in a significant scale-up of financial support for energy-efficient building envelope upgrades and electric heat pump systems, with priorities afforded to Disadvantaged Communities.”<sup>22</sup>
- **Accelerate Procurement of Renewable Generation and Storage Resources:** Funding should be used to accelerate procurement of renewable generation and storage resources where possible. The State’s Draft Clean Energy Standard Biennial Review acknowledges that NYSERDA would need to procure approximately 14,048 GWh of clean energy in

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<sup>20</sup> <https://www.switch.box/nyci>

<sup>21</sup> New York State Climate Action Council, New York State Climate Action Council Scoping Plan 179 (Dec. 2022), <https://climate.ny.gov/-/media/Project/Climate/Files/NYS-Climate-Action-Council-Final-Scoping-Plan-2022.pdf> [hereinafter *Scoping Plan*].

<sup>22</sup> *Id.* at 180.



each of its next three Tier 1 solicitations in order to meet the CLCPA mandate for 70% renewable generation by 2030—yet keeps the state on a path to procuring no more than 5,600 GWh annually.<sup>23</sup> Funds could also be used to supplement existing NYSERDA funding for energy storage, allowing for growth beyond the current goal for 6 GW by 2030.<sup>24</sup> As with renewable generation, the State is projected to need far more storage online moving forward.<sup>25</sup>

*Include At Least \$600 Million for the Clean Water Infrastructure Act*

We urge the Legislature to bolster the CWIA with a long overdue increase in funding, with a minimum total investment of \$600 million for the SFY2025-26 budget. Additionally, we strongly urge the legislature to delineate funding for each program within the CWIA so municipalities and the public can know how much funding is actually available for various programs.

New York’s water infrastructure needs are tremendous. In 2008, reports from DEC and DOH found that, over the next 20 years, New York will need to invest approximately \$80 billion for all the needed repairs, replacements, and upgrades for our drinking and wastewater infrastructure. These needs went ignored until, starting in the SFY2015-16 budget, New York began to put significant investments towards water infrastructure repairs, replacements, and upgrades through the creation of the Water Infrastructure Improvement Act (WIIA) grant program.

In the SFY2017-18 budget, this was built upon with the creation of the Clean Water Infrastructure Act. Today, New York has invested \$5 billion towards water infrastructure and other water needs through the Clean Water Infrastructure Act.

But with over \$80 billion in water infrastructure needs, which doesn’t include the funding needed towards source water protection, addressing unregulated dangerous contaminants, and replacing lead service lines, this funding remains a chip towards overall need. Additionally, strains upon our water infrastructure have grown due to increased precipitation and freeze-thaw cycles from the worsening climate crisis.

The Clean Water Infrastructure Act has been extremely successful, but the state’s water infrastructure and clean water needs still far exceed the funding that is currently available. Environmental Advocates NY’s 2024 report, “A New Era for New York’s Water: An Analysis of Clean Water Infrastructure Act Spending,” reviews CWIA spending from 2017-2023 and

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<sup>23</sup> NY DPS & NYSERDA, *Draft Clean Energy Standard Biennial Review* at 56-60, NY PSC Case No. 15-E-03025 (July, 1 2024), <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={00B46F90-0000-C55E-BED0-C316A9EEA1CF}>.

<sup>24</sup> *Order Establishing Updated Energy Storage Goal and Deployment Policy* at 2, NY PSC Case No. 18-E-0130 (June 20, 2024), <https://www.nyserda.ny.gov/-/media/Project/Nyserda/Files/Programs/Energy-Storage/2024-06-6GW-Energy-Storage-Order.pdf>.

<sup>25</sup> *Id.* at 20 (Energy Storage Roadmap analysis anticipates need for “12 GWs of short-duration energy storage by 2040”).

outlines the importance and reach of the CWIA, along with where funding falls short.<sup>26</sup> According to their research:

- \$3.4 billion has been awarded or spent since 2017, supporting 2,100 projects across every region of the state.
- 53% of CWIA funds have benefited environmental justice communities.
- Major programs, like the Water Infrastructure Improvement Act, are oversubscribed each year:
  - In 2023, there was record demand for funding – “Municipalities requested \$1.35 billion in grants for 482 projects, the highest amount requested and the highest number of applications in the program’s 8-year history.”<sup>27</sup>
  - Of these applications, 33% were awarded funding with a combination of WIIA and Environmental Bond Act dollars. This left 225 shovel-ready projects behind that were not awarded in the 2023 cycle.
  - This follows trends from previous years. In the 2022 grant cycle, WIIA funds were awarded to 73 projects for a total of \$279 million, but 246 shovel-ready projects were left behind, totaling \$665 million.<sup>28</sup> In 2019, 83 shovel-ready projects went unfunded, totally nearly one-third of the total shovel-ready projects submitted.<sup>29</sup> Environmental Advocate NY’s previous analyses of WIIA grant rounds from 2015 to 2018 found that, at that time, only half of shovel-ready projects with complete applications received a grant award.<sup>30</sup>

WIIA, along with the other programs in the CWIA, both protects water and public health, and creates good jobs. The successes of the CWIA should be awarded with increased funding in the SFY2025-26 budget.

### *Include At Least \$100 Million for the Lead Service Line Replacement Program*

One important program within the Clean Water Infrastructure Act is the Lead Service Line Replacement Program (LSLRP), which has provided funding to help municipalities replace dangerous lead service lines. Most of the lead found in drinking water comes from lead service lines, according to the EPA. Lead service lines naturally corrode when water flows through them.

Lead is a potent neurotoxic chemical that has no known safe level of human exposure. Children are especially vulnerable to harm when exposed early in life, including in utero. There is a scientific consensus on the devastating harm that lead causes to children, especially irreversible harm in neurological development. Lead can also cause grave damage to the hematologic,

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<sup>26</sup> Robert Hayes, A New Era for New York’s Water: An Analysis of Clean Water Infrastructure Act Spending,” Environmental Advocates NY, February 2024, <https://eany.org/wp-content/uploads/2024/01/A-New-Era-for-New-Yorks-Water.pdf>

<sup>27</sup> Robert Hayes, A New Era for New York’s Water: An Analysis of Clean Water Infrastructure Act Spending,” Environmental Advocates NY, February 2024, page 18, <https://eany.org/wp-content/uploads/2024/01/A-New-Era-for-New-Yorks-Water.pdf>

<sup>28</sup> Robert Hayes, *Untapped Potential: A New Era for New York’s Water Infrastructure*, Environmental Advocates NY, February 2023, [https://eany.org/wp-content/uploads/2023/02/EANY-Untapped-Potential\\_FINAL.pdf](https://eany.org/wp-content/uploads/2023/02/EANY-Untapped-Potential_FINAL.pdf)

<sup>29</sup> Robert Hayes, *Untapped Potential: Building the Next Generation of Water Infrastructure*, Environmental Advocates NY, November 2021, p.6, <https://eany.org/wp-content/uploads/2021/11/EANY-water-report-Nov-2021-Final-1.pdf>

<sup>30</sup> Maureen Cunningham and Robert Hayes, *Untapped Potential: New York’s Growing Water Infrastructure Need*, Environmental Advocates NY, 2020, [https://eany.org/eanypdfs/eany\\_2020\\_water\\_report\\_1.pdf](https://eany.org/eanypdfs/eany_2020_water_report_1.pdf)

gastrointestinal, cardiovascular and renal systems in children and adults. Lead is also a likely carcinogen, adding to the effect of other carcinogens in a child's environment. Communities of color are disproportionately affected. A study by the Centers for Disease Control and Prevention found that 11.2% of African-American children and 4% of Mexican-American children are poisoned by lead.<sup>31</sup>

With New York's old infrastructure, it should come as no surprise that lead service lines are pervasive across the state. There are estimates that, statewide, there are at least 500,000 lead service lines.<sup>32</sup> A recent report from the New York City Coalition to End Lead Poisoning (NYCCELP) found an estimated one in five New York City residents, or 21% of the City's population, may be drinking water transported through lead service lines.<sup>33</sup> The report also found that for NYC alone:

- Up to 41% of water service lines are lead or possible lead service lines.
- As many as 902,974 households have lead or possible lead service lines.
- As many as 1,845,119 individuals, or 21% of the city's population, live in a household with lead or possible lead service lines.

New York City is far from the only city with lead in drinking water issues – upstate cities like Troy, Newburgh, and Ilion have all exceeded EPA's action level for lead in drinking water in recent years.<sup>34</sup>

Unfortunately, the Lead Service Line Replacement Program has not funded any projects since 2019. From a recent report released by Environmental Advocates NY: "Of the \$5 billion appropriated to the CWIA since 2017, only \$30 million has been provided to the LSLRP. Just as concerning, the LSLRP has not distributed any new grants since 2019. DOH data from July 2022 indicates that just 2,300 LSLs had been replaced by that time."

Last year, the Environmental Protection Agency's (EPA) adopted amendments to the Lead and Copper Rule (LCR), established in 1991 and intended to regulate the control and monitoring of lead in drinking water. The proposed new rule requires water systems to replace all lead pipelines within 10 years (and faster when feasible), lowers the levels at which agencies must take additional steps to eliminate lead in drinking water, and contains provisions intended to improve accuracy in identifying where higher levels of lead in drinking water are within communities.

Given the new LCR, along with an existing need for New York to address lead, it could not be timelier for the SFY2025-26 budget to give the Lead Service Line Replacement Program a long

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<sup>31</sup> <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5809a1.htm>

<sup>32</sup> US EPA, "7th Drinking Water Infrastructure Needs Survey and Assessment," April 2023, [https://www.epa.gov/system/files/documents/2023-04/Final\\_DWINSAs%20Public%20Factsheet%204.4.23.pdf](https://www.epa.gov/system/files/documents/2023-04/Final_DWINSAs%20Public%20Factsheet%204.4.23.pdf)

<sup>33</sup> NYCCELP, "No Excuses, NYC: Replace Lead Drinking Water Pipes Now," July 2023, <https://nylcv.org/wp-content/uploads/NoExcusesNYCReplaceLead.pdf>

<sup>34</sup> Robert Hayes, A New Era for New York's Water: An Analysis of Clean Water Infrastructure Act Spending," Environmental Advocates NY, February 2024, page 16, <https://eany.org/wp-content/uploads/2024/01/A-New-Era-for-New-Yorks-Water.pdf>





overdue funding boost of \$100 million. New York must speed up lead service line replacement to meet this new rule and protect the health of its residents.

*Include At Least \$500 Million for the Environmental Protection Fund*

The Governor’s Executive budget proposal maintains funding level EPF at \$400 million; however, with many EPF programs often oversubscribed, combined with an incoming federal administration likely to shortchange environmental protections, an increase in funding is needed. We urge the legislature to increase EPF by an additional \$100 million.

The Environmental Protection Fund provides critical funding to support farmers’ efforts to protect natural resources, reduce climate emissions, and increase their climate resiliency. These programs include (1) the Agricultural Environmental Management (AEM) Program, which provides funding for districts to provide conservation technical assistance and cost-sharing funding with farmers to implement conservation and best management practices; (2) the Agricultural Non-Point Source Pollution Abatement and Control Program (AgNPS), which provides funding to address and prevent water quality issues that stem from farming activities, including nutrient pollution; and (3) the Climate Resilient Farming (CRF), which funds projects to reduce the impact of agriculture on climate change and to increase the resiliency of New York State farms in the face of a changing climate. These programs are both widely popular and underfunded. In the last round of funding for the Climate Resilient Farming program, DAM received 107 applications requesting \$48.6 million requested, and they were only able to fund 70 projects, totaling \$33 million awarded. In addition, over half of this funding, \$17 million, was from the federal government. To achieve the state’s climate goals, protect its water resources, and support farmers in the face of a changing climate, it is imperative that the state continue and grow its investment in these critical programs.

The Environmental Protection Fund offers much needed funding to various sectors in New York’s environment, and the benefits are apparent:

- According to a study by The Trust for Public Land, every \$1 invested in land and water conservation through the EPF returns \$7 to the state.
- The EPF supports 350,000 jobs across New York in a broad spectrum of industries including construction, agriculture, recreation, tourism, forestry, recycling, and recreational fishing.
- EPF-supported industries add \$40 billion to the state’s economy every year.

**Reign In Out-of-Control Energy Bills by Passing the NY HEAT Act**

New Yorkers’ energy bills have become a runaway train. A wave of rate hikes is taking place in utility areas across the state – newly approved rates for NYSEG in the southern tier will cost the average ratepayer an additional \$40 each month. A proposed rate hike in the Hudson valley by Central Hudson would be an additional \$30 each month.<sup>35</sup> The sudden jump in energy bills is the result of expanding and managing the gas system. Low-income New Yorkers have already been

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<sup>35</sup> Lea Webb, “The NY HEAT Act will help families and fight climate change,” Times Union, January 8, 2024, <https://www.timesunion.com/opinion/article/ny-heat-act-help-families-fight-climate-change-18589982.php>

paying unreasonable and inequitable sums of money for their energy use. The Public Utility Law Project found that in 2019, low-income New Yorkers, on average, are paying 13.4% of their income towards their energy bills. In some regions of the state, it is even higher, at a whopping 17%.<sup>36</sup> New Yorkers are paying more money for an ailing gas system instead of investing in neighborhood-scale decarbonization projects that are safe, reliable and cost effective. Passing NY HEAT will help enable New York to meet its CLCPA climate mandates, decrease emissions and combat climate change while also ensuring affordability.

The NY HEAT Act will save New Yorkers' money by capping utility bills, eliminating needless subsidies to expand the gas system, saving them from future costs from expanding and maintaining the state's old gas infrastructure. To clearly outline some of these costs savings:

- Capping utility bills at 6% of a household's income will cut average bills by \$136/month for the families that need it most.
- Statewide, eliminating a subsidy known as "the 100-foot rule" will save the state \$200 million annually.
- It costs \$3-6 million to replace a single mile of gas pipeline, which is subsidized by all ratepayers, and could instead go towards cheaper, cleaner alternatives. If NY HEAT is not passed, this wasteful spending will continue, with gas utilities already planning to spend an additional \$28 billion replacing their old gas pipelines by 2043.

The onus of transitioning away from fossil fuels can't fall on each individual New Yorker. While it is a testament to the cost competitiveness and appeal of all-electric technology that so many consumers are choosing to switch off gas, New York must have a planned transition away from the gas system. The NY HEAT Act, by removing preferences for gas and aligning our Public Service Law with the state's climate law, lays the groundwork for a transition that does not become a burden for regular people.

One way the NY HEAT Act does this is by ending the gas mandate, also known as "the obligation to serve." Under current law, the obligation is specific to gas, rather than a simple obligation to ensure electric service and efficient heating, cooling, cooking, and hot water services. The gas utilities obligation to serve is a major obstacle and prevents utilities from exploring non-fossil fuel energy options, like neighborhood scale building decarbonization projects such as district geothermal.

Another barrier to the decarbonization of buildings is the statutorily mandated utility system extension allowances which require existing ratepayers to subsidize gas infrastructure hookups for new customers – known as "the 100-foot rule." This subsidy incentivizes both gas system expansion and gas appliance installation. Removing natural gas line subsidies further tilts economics in favor of all-electric buildings.

Bringing about an equitable transition off gas will require intentional planning and dedicated assistance to some disadvantaged communities. By providing the Public Service Commission with the authority and direction to align gas utility regulation and gas system planning with the

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<sup>36</sup> Lea Webb, "The NY HEAT Act will help families and fight climate change," Times Union, January 8, 2024, <https://www.timesunion.com/opinion/article/ny-heat-act-help-families-fight-climate-change-18589982.php>

CLCPA, and requires the Commission to take a proactive role, the NY HEAT Act will facilitate a managed transition which will avoid burdening any subset of energy consumers with the spiraling costs of natural gas infrastructure.

*The NY HEAT Act is a Practical Planning Policy: Myths vs. Facts*

Unfortunately, and unsurprisingly, opponents to the NY HEAT Act have engaged in a misinformation campaign regarding what this legislation does, and the feasibility of adopting such a policy now. To address common arguments:

- **FALSE: The NY HEAT Act forces consumers off gas.** The NY HEAT Act does not mandate customers switch off gas immediately. Instead, it gives the Public Service Commission and utilities the legal tools they need to systemically downsize the gas system. This legislation is inherently a planning bill – it requires utilities to assess whether it makes sense to continue maintaining faulty, old infrastructure, or if an entirely new, non-fossil, system should be instituted. It will allow utilities to explore neighborhood-scale solutions, making it financially easier for homes and businesses to decarbonize.
- **FALSE: Ending the 100-foot rule means no one can get new gas service.** Ending what is known as “the 100-foot rule” would not mean there couldn’t be hookups to gas – it simply means regular ratepayers will not have to pay for the costs of the hookup.
- **FALSE: The NY HEAT Act means utilities can’t fix dangerous infrastructure.** The NY HEAT Act does not prevent utilities from fixing infrastructure that poses immediate threats or safety concerns. The changes to the public service law in the legislation require climate considerations in gas planning, but do not slow down or prevent the PSC or utilities from their obligation to public safety.
- **FALSE: Ending the “obligation to serve” means no one will be able to get new gas services.** The legislation does not prevent utilities from continuing to offer gas or restoring gas services after a shutoff due to nonpayment or power outage. The language changes, instead, amends an explicit mandate to gas and upon approval from the PSC, it allows utilities to offer neighborhood scale, decarbonization options. The changed language ensures customers have a right to electric service and efficient heating, cooling, cooking, and hot water services, regardless of energy source.
- **Who is left footing the bill if we have a 6% cap on utility bills?** The 6% cap on utility bills in the legislation simply codifies an existing state policy goal. Additionally, the legislation gives the PSC options to achieve this goal, including but not limited to:
  - Reducing costs for all customers by avoiding costly gas expansion and unnecessary gas line replacements, which will cost tens of billions of dollars in the coming decades
  - Directing more of the state’s community solar credits to low-income households to help reduce their bills.
  - Targeting more of the state’s energy efficiency programs to low-income households to help them save energy and reduce their bills. This also has the effect of reducing costs for all customers by reducing overall energy demand and overall energy infrastructure needs.

- Examining and changing rate structures so that low energy users pay less and high energy users pay more. Current rate structures make gas cheaper the more you use. Changing that would immediately benefit many low energy users and will also encourage conservation, which will bring down costs for everyone.
- **Will a cap on utility bills incentivize people to use more energy? NO.** NY HEAT allows the Commission to set a reasonable limit on how much energy is included in the affordability protections, encouraging conservation and protecting all ratepayers.
- **Can all-electric technology work in cold climates? YES.** Households living in cold climates need geothermal or a good quality, cold-climate air-source heat pump specifically designed for harsh winters. Air-source heat pump technologies have advanced significantly, with leading products now performing well below 10 degrees Fahrenheit. This technology has even been tested as far north as the Arctic Circle.<sup>37</sup>
- **Is it more expensive to build all-electric? NO.** A report recently released by Win Climate found that, across the state, all-electric new construction would lead to a decline in energy costs – a minimum of \$900 each year.<sup>38</sup> Additionally, an analysis from RMI found new all-electric single-family homes are in many cases cost-competitive, or cheaper, to construct than new fossil fuel-based homes.<sup>39</sup> Heat pumps also provide inexpensive air conditioning, which adds to their cost-effectiveness.
- **What happens if there is a power outage?** All modern heating systems, whether gas, propane, oil, kerosene, coal, or wood pellets rely on electric power to operate (wood stoves are the only exception). Some very old and inefficient fossil-fueled furnaces can work without electricity, but that is not the case for modern gas furnaces. No laws or policies in New York prohibit the use of fossil fuels for emergency backup generators.

Additionally, *all-electric buildings are already being constructed in New York*, including in Upstate. [Over 130 buildings](#) have already been constructed or are in the process of being constructed as all-electric in regions across the state. Some examples include:

- **Zero Place, a mixed-use, 4-story, carbon-free building** in late development in **New Paltz**, 64,000 square feet including 46 apartments and retail.
- **Autumn Gardens, a 72-unit public housing development** at 788 E. High St. in the **City of Lockport** transitioned to geothermal heating in 2015.
- **Horsefeathers, a 30,000 square foot 24-unit building** with restaurant on ground floor in **Buffalo** transitioned to geothermal.
- **Tompkins Financial Corporation Headquarters, 7-story commercial building** in **Ithaca** is all-electric relying on air source heat pumps.
- **City Centre, over 200,000 square feet of apartments, commercial and retail space** completely reliant on air source heat pump at 301 East State St in **Ithaca**.
- **100 Flatbush Ave, a 44-story mixed use tower** in downtown **Brooklyn** with 441 residential units and 30,000 square feet of retail.

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<sup>37</sup> Michael Gartman, Amar Shah, “Heat Pumps: A Practical Solution for Cold Climates,” RMI, December 10, 2020, <https://rmi.org/heat-pumps-a-practical-solution-for-cold-climates/>

<sup>38</sup> Max Shron, Amit Kooner, Juan-Pablo Velez, “The impact of the All-Electric Building Act on the cost of heating new homes in New York State,” October 2022, [https://drive.google.com/file/d/14cm1hLk4DIIY\\_vK8gyOwTcRIAlaa3kUT/view](https://drive.google.com/file/d/14cm1hLk4DIIY_vK8gyOwTcRIAlaa3kUT/view)

<sup>39</sup> Claire McKenna, Amar Shah, Leah Louis-Prescott, “All-Electric New Homes: A Win for the Climate and the Economy,” October 15, 2020, <https://rmi.org/all-electric-new-homes-a-win-for-the-climate-and-the-economy/>

## **Reject False Climate Solutions**

### *Support Direct, Targeted Emission Reductions Instead of a Low-Carbon Fuel Standard*

The “Clean Transportation Standard,” also referred to as a “Low-Carbon Fuel Standard” or “Clean Fuel Standard”, as proposed in the Scoping Plan and advanced in A.964/S.1292 (2024), is not the right tool to raise revenue or incentivize zero emissions transportation in New York, for three reasons. First, the Clean Transportation Standard is likely to incentivize the use of “low-carbon” alternative fuels and artificially encourage investments that would lock-in combustion infrastructure, even in cases where electrification is viable today. This will result in a slower transition to a zero-emissions transportation sector, and continued tailpipe emissions, particularly of harmful co-pollutants. In other states, similar policies have been found to prop up alternative fuel projects with dubious climate benefits.

Second, the Clean Transportation Standard would create a private market for investment in “clean transportation” not subject to oversight by New Yorkers, public agencies or the legislature. Moreover, investments under the Clean Transportation Standard would not be subject to the CLCPA’s requirement that a minimum of 35% of funds be invested in disadvantaged communities, thus undermining the state’s equity mandates.

Finally, it must be noted that a Clean Transportation Standard, or low-carbon fuel standard, would especially untimely given the ongoing regulatory process surrounding the upcoming Cap and Invest program, which is designed to reduce emissions, raise revenue, and support energy affordability across all sectors. Any low-carbon fuel standard or similar program would be duplicative of this broader effort, which is why the state’s Climate Action Council recommended it only in the absence of an economywide cap-and-invest program.

Unlike the cap-and-invest framework, a low-carbon fuel standard will not generate revenue for the state to implement the state’s landmark Climate Scoping Plan – instead, it will simply adjust prices for different transportation fuels and funnel revenue to private companies rather than New Yorkers. Earthjustice instead urges the legislature and state agencies to work towards implementing existing transportation electrification policies and directly support the deployment of charging infrastructure.

### *Biofuels and Hydrogen are False Solutions*

Earthjustice urges the legislature to reject strategies built around combustion of alternative fuels such as RNG and hydrogen. Production and use of these fuels result in significant GHG emissions and other environmental impacts.<sup>40</sup> For example, hydrogen combustion creates significant emissions of nitrogen oxides (NOx), a precursor to both ground-level ozone and fine particulate matter. These pollutants adversely impact local air quality and can cause serious

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<sup>40</sup> Sasan Saadat & Sara Gersen, Earthjustice, Reclaiming Hydrogen for a Renewable Future: Distinguishing Oil & Gas Industry Spin from Zero-Emission Solutions 10–11, 28 (Aug. 2021), [https://earthjustice.org/sites/default/files/files/hydrogen\\_earthjustice.pdf](https://earthjustice.org/sites/default/files/files/hydrogen_earthjustice.pdf)

health problems, and disproportionately affect communities of color.<sup>41</sup> In fact, combusting hydrogen may produce NOx emissions at six times the rate of combusting methane.<sup>42</sup>

Additionally, a growing and overwhelming body of research demonstrates that blending hydrogen with natural gas for use in buildings is highly inefficient and does little to reduce GHG emissions.<sup>43</sup> Moreover, because of the difference in chemical properties between hydrogen and methane, *it is not feasible to use the existing natural gas infrastructure to combust hydrogen in buildings*.<sup>44</sup> Natural gas pipelines can only handle low hydrogen blends before creating safety risks. Relying heavily on hydrogen to power appliances to prevent these safety issues would therefore require utilities to retrofit or replace most pipelines, a huge capital investment, whereas electrification is significantly less disruptive because equipment and appliance replacements can occur incrementally using existing electrical infrastructure.

Additionally, less than one percent of hydrogen is produced via electrolysis and only about 0.02 percent qualifies as green hydrogen (meaning that it is produced from electrolysis powered purely by renewable electricity).<sup>45</sup> Green hydrogen production is currently limited to demonstration projects, with projects “mostly in the single-digit MW scale.” Instead, nearly all hydrogen within the United States is gray hydrogen, produced via steam methane reformation (“SMR”) of fossil gas, an energy-intensive process emitting both GHGs and harmful co-pollutants including NOx, fine particulate matter, carbon monoxide, and volatile organic compounds. And because electrolysis is so energy-intensive, hydrogen produced using grid-average electricity is even more carbon-intensive than hydrogen produced via SMR. Producing hydrogen is also water-intensive, and at a large scale could lead to water stress.

Production and use of other non-fossil fuels such as RNG also results in harmful environmental impacts and can increase net GHGs. Indeed, because RNG is chemically identical to fossil gas, its combustion emits the same level of GHGs.<sup>46</sup> Additionally, RNG cannot provide a meaningful source of energy: the supply of true, capturable waste methane (e.g., from uncontrolled landfills and wastewater treatment plants) amounts to less than 1% of current gas demand.<sup>47</sup>

Moreover, any strategy built around continued reliance on the gas pipeline system necessitates massive investments in replacement of leak-prone pipes. Utilities are collectively planning to invest billions of dollars in LPP replacement over the next several decades. These costs are

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<sup>41</sup> See N.Y. State Dep’t of Health, New York’s State Health Improvement Plan: Prevention Agenda 2019-2024 72–3 (updated Sept. 2, 2021), [https://www.health.ny.gov/prevention/prevention\\_agenda/2019-2024/docs/ship/nys\\_pa.pdf](https://www.health.ny.gov/prevention/prevention_agenda/2019-2024/docs/ship/nys_pa.pdf)

<sup>42</sup> Lew Milford et al., Clean Energy Group, Hydrogen Hype in the Air (Dec. 14, 2020), <https://www.cleaneenergy.org/hydrogen-hype-in-the-air/>

<sup>43</sup> Sara Baldwin et al., Energy Innovation Policy & Tech., Assessing the Viability of Hydrogen Proposals: Considerations for State Utility Regulators and Policymakers 2 (2022), <https://energyinnovation.org/wp-content/uploads/2022/03/Assessing-the-Viability-of-Hydrogen-Proposals.pdf>

<sup>44</sup> Id.

<sup>45</sup> Saadat & Gersen, *supra* note 2, at 7; Emanuele Taibi et al., Int’l Renewable Energy Agency, Green Hydrogen Cost Reduction: Scaling Up Electrolysers to Meet the 1.5°C Climate Goal 18 (2020), [https://irena.org/-/media/Files/IRENA/Agency/Publication/2020/Dec/IRENA\\_Green\\_hydrogen\\_cost\\_2020.pdf](https://irena.org/-/media/Files/IRENA/Agency/Publication/2020/Dec/IRENA_Green_hydrogen_cost_2020.pdf)

<sup>46</sup> Alternative Fuels Data Center, U.S. Dep’t of Energy, [https://afdc.energy.gov/fuels/natural\\_gas\\_basics.html#:~:text=RNG%20qualifies%20as%20an%20advanced,liquefied%20for%20use%20in%20vehicles](https://afdc.energy.gov/fuels/natural_gas_basics.html#:~:text=RNG%20qualifies%20as%20an%20advanced,liquefied%20for%20use%20in%20vehicles) (last visited May 31, 2022).

<sup>47</sup> Sasan Saadat et al., Earthjustice & Sierra Club, Rhetoric v Reality: The Myth of “Renewable Natural Gas” for Building Decarbonization 9 (July 2020), [https://earthjustice.org/wp-content/uploads/report\\_building-decarbonization-2020.pdf](https://earthjustice.org/wp-content/uploads/report_building-decarbonization-2020.pdf)

grossly disproportionate to their climate benefits and most of these costs could be avoided through a more surgical, safety-based approach to focusing instead on the most hazardous and environmentally significant leaks. For these reasons, building decarbonization must be pursued through electrification, and reliance on alternative fuels must be rejected.

*Funky Climate Math: Oppose Changes to New York’s Greenhouse Gas Accounting*

During the 2023 legislative session, a bill (S.6030/A.6039 of 2023) was introduced, and was considered during SFY2023-24 budget negotiations,<sup>48</sup> that would undermine New York’s work to meet the mandates of its landmark climate law by requiring the use of a 100-year timeframe for methane emission accounting instead of a twenty-year timeframe. The outdated 100-year timeframe vastly undercounts methane’s climate impacts, and this change would prevent decisionmakers from accurately assessing the harms of methane-based fuels and require the state to reevaluate its greenhouse gas inventory and Scoping Plan, delaying urgently needed action.

New York has demonstrated climate leadership by adopting a science-based greenhouse gas accounting system. According to the Intergovernmental Panel on Climate Change, methane remains in the atmosphere for under two decades and is 87 times more powerful as a greenhouse gas than carbon dioxide over a twenty-year period. The use of a twenty-year global warming potential is critical for capturing the true climate impacts of methane emissions that occur during the production and transportation of natural gas. Adopting the 100-year global warming potential would act as an accounting trick, making it look like gas companies had significantly reduced their emissions overnight when in fact they had done nothing at all.

This legislation would further hobble New York’s climate efforts by excluding biogenic emissions from the State’s greenhouse gas inventory and treating forest biopower and anaerobic digestion as “renewable energy systems,” even though these energy sources can result in significant net greenhouse gas emissions. The CLCPA intentionally did not designate these sources as renewable because the law seeks to eliminate greenhouse gases to the greatest extent possible.

The legislation, and any policy like it, would act as a giveaway to gas companies seeking to tie consumers to their expensive product and delay the transition to a renewable energy economy. To achieve the CLCPA’s mandates New York must rapidly develop wind, solar, and energy storage capacity: an accounting system that conceals the climate impacts of combustion fuels will only hurt New Yorkers.

**Changing New York’s greenhouse gas accounting system would weaken the CLCPA by putting a thumb on the scale in favor of gas. Meeting our climate mandates requires moving away from combustion fuels and towards true clean energy solutions like electrification.**

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<sup>48</sup> Ibid.

## Cleaner Air, Better Transit: Electrifying Transportation

The Scoping Plan made clear that an expedited transition to zero-emission vehicles is necessary to reach CLCPA-mandated emissions reductions in New York. Vehicle electrification – particularly for medium- and heavy-duty vehicles – has added clean air benefits, since diesel emissions from trucks and buses are a major contributor to poor air quality and health impacts like asthma and other chronic respiratory illness.

The state has been adopting critical electric vehicle sales regulations like Advanced Clean Trucks and Advanced Clean Cars II, while implementation has begun on the state’s milestone zero-emission school bus policy. The Public Service Commission has expanded its infrastructure incentive program for light-duty vehicles and is in the middle of a planning process to catalyze electrification for trucks and buses. This year’s budget offers a key opportunity to keep up and accelerate the state’s progress.

### *Pass the Clean Deliveries Act*

The e-commerce sector has experienced exponential growth in the last decade, with consumer demand for online goods surging by over 33% between 2019 and 2020 alone. The influx of demand coupled with online retailers’ same- or next-day delivery guarantees has accelerated the buildout of logistical “last-mile” warehouses, many sited disproportionately within or surrounding lower income communities and communities of color in New York State. The expansion of e-commerce freight delivery is one of the reasons that freight trucks’ total VMT is projected to increase by 54% by 2050 – threatening to stall progress on CLCPA emission reduction mandates, even with newly adopted truck electrification rules.

Massive e-commerce warehouse facilities and the high number of trucks associated with their operations are currently unregulated. To address the problem of increased diesel truck emissions from e-commerce warehouses, and the disparate health impacts in communities where these warehouses are clustered, the legislature should pass the Clean Deliveries Act (S.1180), which would implement an “Indirect Source Rule” to drive electrification and emission reductions at e-commerce mega-warehouses. The lack of state oversight allows the industry to continue operating in a way that places a disproportionate impact on low-income New Yorkers and New Yorkers of color. A new report from EDF and ElectrifyNY demonstrates this impact, finding that one out of four New Yorkers live within 0.5 miles of a mega-warehouse, and that Black, Hispanic/Latino, and low-income individuals are 42%-59% more likely to be impacted.<sup>49</sup>

It is clear that targeted policies for warehouses (and other freight hubs) are needed to prioritize clean energy investments and emission reductions in communities most burdened by the status quo freight and goods movement system.

The bill would close the regulatory gap for these facilities, requiring warehouse operators to take measures to reduce air emissions. Key provisions include:

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<sup>49</sup> Env'tl. Def. Fund, *Warehouse Boom Places Unequal Health Burden on New York Communities* (2024), <https://globalcleanair.org/wp-content/blogs.dir/95/files/EDF-NY-Warehouse-Boom-Report-1-18-23.pdf>.



- **An air emissions reduction and mitigation plan** requiring warehouse operators to demonstrate emission reductions efforts by: acquiring zero-emission vehicles & charging infrastructure; installing solar panels on-site; using alternative transportation modes for incoming or outgoing trips; or paying additional fees
- **Enhanced air quality protections** for warehouses operating in disadvantaged communities or that impact schools and similar facilities
- **A permit requirement** for new warehouse developments or those proposing significant modifications
- **Ongoing reporting requirements** related to truck traffic and emissions mitigation measures
- **A zero-emission zones study** on the feasibility, benefits, and costs of implementing low- and zero-emissions zones in air pollution and congestion hotspots within New York State

### *Support Implementation of the Advanced Clean Trucks (ACT) Rule*

Unfortunately, the federal government's support for clean trucking standards is not expected to continue in the current administration. This makes it critical that New York State maintain and strengthen programs under existing authorities to catalyze the market and get the trucking industry on a pathway towards zero-emissions, in line with the Climate Act and the Scoping Plan. One clear opportunity is the Advanced Clean Trucks rule. Governor Hochul recently reiterated her administration's support for the rule, pointing out the inherent benefits and flexibilities in the face of industry pressure and misinformation. We urge the legislature to resist any and all efforts to rollback state regulations, especially now. We look forward to working with the legislature to ensure that the State offers a suite of complementary policies, such as a robust charging network, rational utility policies, and a dedicated incentive program for small- and medium-sized fleets to cover the upfront costs of the transition.

### **Protect New Yorkers from Toxic Forever Chemicals (PFAS)**

#### *Protecting People, Farmland, and the Environment from PFAS Biosolids*

Numerous studies show that PFAS are frequently found in sewage sludge. Despite the presence of these toxic chemicals, wastewater treatment facilities commonly contract with landowners to dispose of sludge on agricultural lands. After sewage sludge is land applied, PFAS in the sludge enter the soil and are taken up by crops grown on the land. PFAS can also become airborne, leach into groundwater, and run off into surface water, contaminating drinking water supplies. Livestock, fish, and wildlife that come into contact with PFAS in soil, crops, air, and water can then become contaminated. Eating contaminated plants and animals and drinking contaminated water are the primary sources of human exposure to PFAS. One study estimated that eating a single radish grown in soil with elevated PFAS levels could mean surpassing EPA's daily exposure guidelines.

Across the country, land application of sewage sludge has resulted in PFAS contamination that has rendered land unsuitable for agriculture. For example, in Michigan, officials shut down a farm where tests found high concentrations of PFAS in the soil and cattle that grazed on the land. The state later permanently prohibited the property from being used for agriculture. In Texas,

owners of a farm where a stillborn calf was found to have high levels of PFAS in its liver stopped sending all of their cattle to market. And in Maine, at least 68 farms were found to have PFAS contamination in their soil, wells, or livestock, which drove at least four farms out of business.<sup>20</sup> The number of contaminated farms in Maine likely is an undercount, as the state has not completed testing. In response to the widespread PFAS contamination, Maine banned sewage sludge application on agricultural land.

Remediating soil and water contaminated with PFAS is difficult and costly. A recent study of methods for removing PFAS from soil explained that “[t]here are currently no proven technologies that can degrade PFAS in soil and sediments in a cost-effective, environmentally-friendly, and energy-efficient manner.” A similar study concluded that existing methods for removing PFAS from soil are “expensive, impractical for *in situ* treatment, [and] use high pressures and temperatures, with most resulting in toxic waste.” Removing PFAS from drinking water is possible but comes with a significant price tag. For example, the city of Anaheim, California expects to spend \$200 million to build a PFAS filtration plant to treat its drinking water. And an owner of a farm in Maine spent \$40,000 to install a water filter to control PFAS levels. In 2021, Maine lawmakers created a \$60 million fund to help PFAS-impacted farmers. As of June 2023, the state had paid about \$2 million to 17 farms to reimburse for lost wages and livestock, testing and filtration, purchasing replacement feed, and changing crops.

EPA and the NY Department of Environmental Conservation recognize that PFAS in sewage sludge harm human health and natural resources. EPA is currently conducting a risk assessment for PFAS in sewage sludge, and this month issued a draft risk assessment that found that land application of sewage sludge with even 1 part per billion of PFAS is associated with environmental and health risks. While it waits for EPA to finalize this risk assessment, DEC has issued an interim policy limiting the application of biosolids that test higher than 50 parts per billion – 50 times higher than what EPA has found to threaten human health. Thus, current federal and state regulations governing land application do not protect the public from PFAS in sewage sludge. The legislature should pursue policy solutions to fill this void.

## **Prevent Hunger and Food Waste**

### *Cut Grocery Bills by Standardizing Food Date Labels*

Currently, food labeling causes a great deal of confusion and a staggering amount of food waste. On grocery shelves today, there are more than 60 differently phrased date labels on packaged food that confuse consumers about whether the food is safe to eat. According to USDA, “best if used by/before,” “use-by,” and “freeze-by” dates all indicate when a product should be used for peak quality and do not indicate product safety. Additionally, “sell-by” dates tell the store how long to display a product for sale for inventory management and do not reflect product quality or safety. However, many consumers misunderstand these phrases and believe they convey safety-related expiration dates, a point confirmed by USDA-funded research. According to estimates cited by USDA, this consumer confusion accounts for over 20 percent of all food waste in homes.

This food waste has grave economic, resource use, and climate consequences. Food waste costs the average American family of four over \$2000 per year. The production of uneaten food also entails millions of acres of agricultural land, billions of gallons of water, and large quantities of air and water pollution caused by pesticides and fertilizer use. It also further drives climate change: Most food waste is sent to landfills where it rots and releases methane, accounting for two percent of all US GHG emissions, or more than half of the emissions attributable to aviation.

New York should follow California's lead and take action to require companies to use uniform terms to communicate food quality dates and safety dates and to educate consumers about their meanings. This presents a great opportunity to help consumers save money while reducing the environmental impacts of food waste.

### **Agriculture and Climate**

The contributions of the agriculture sector to greenhouse gas (“GHG”) emissions are often overlooked in the discussion on climate change, yet there are numerous policies and tools New York could adopt to transform this sector to help mitigate catastrophic climate change.

Food systems contribute approximately one third of global and U.S. greenhouse gas emissions,<sup>50</sup> and agriculture is the largest contributor of non-CO<sub>2</sub> greenhouse gases.<sup>51</sup> Even if all other emissions sources immediately stopped, emissions from the global food system would still raise temperatures by more than 1.5°C above pre-industrial levels (the target limit for warming under the Paris Agreement) within 30 to 45 years, and might exceed a 2°C increase within 90 years.<sup>52</sup>

The State Department of Environmental Conservation (“DEC”) indicates that agriculture is responsible for 6% of total state GHG emissions, and that 92% of those emissions come from livestock.<sup>53</sup> Unlike other sectors in New York where emissions have already decreased, livestock management emissions have increased 44% since 1990.<sup>54</sup> And unlike the energy sector, whose contributions to climate change are largely in the form of carbon dioxide, agricultural emissions include methane, nitrous oxide, and carbon dioxide. Over 20 years, methane has a global warming potential about 84 times greater than carbon dioxide, and nitrous oxide has a global warming potential about 264 times greater than carbon dioxide.<sup>55</sup>

Food systems emit greenhouse gases at all stages of food production:

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<sup>50</sup> Crippa, M. et al. (2021). Food systems are responsible for a third of global anthropogenic GHG emissions. *Nat Food* 2, 198–209. <https://doi.org/10.1038/s43016-021-00225-9>

<sup>51</sup> United States Environmental Protection Agency, U.S. State-level Non-CO<sub>2</sub> Greenhouse Gas Mitigation Potential: 2025-2050: Agriculture Overview, Last visited January 18, 2023 <https://cfpub.epa.gov/ghgdata/nonco2/usreports/#page6>

<sup>52</sup> Clark, M. A. et al. (2020). Global food system emissions could preclude achieving the 1.5° and 2°C climate change targets. *Science* 370(6517), 705-708. <https://doi.org/10.1126/science.aba7357>

<sup>53</sup> N.Y. Dep't of Env't Conservation (“DEC”), Agriculture Forestry, and Other Land Use: 2022 NYS Greenhouse Gas Emissions Report, at 2, [https://www.dec.ny.gov/docs/administration\\_pdf/ghgafolu22.pdf](https://www.dec.ny.gov/docs/administration_pdf/ghgafolu22.pdf)

<sup>54</sup> Id.

<sup>55</sup> Intergovernmental Panel on Climate Change Working Groups I, II and III, Climate Change 2014: Synthesis Report 87 box 3.2 tbl.1 (2014), [https://www.ipcc.ch/site/assets/uploads/2018/02/SYR\\_AR5\\_FINAL\\_full.pdf](https://www.ipcc.ch/site/assets/uploads/2018/02/SYR_AR5_FINAL_full.pdf)

- Fertilizers and pesticides are made from fossil fuels in an energy-intensive manufacturing process.<sup>56</sup>
- Deforestation, destruction of grasslands, and other land clearing releases tremendous amounts of carbon stored in soils and plants.
- Excess fertilizer applied to crops releases nitrous oxide, a greenhouse gas with 300 times the warming power of carbon dioxide over 100 years.<sup>57</sup> On average, producers apply about twice as much fertilizer as the crops can use.
- Cows—both beef cattle and dairy cows—release “enteric” methane with every breath. Methane is about 25 times more potent than carbon dioxide over 100 years. Manure from cows, swine, and poultry also releases methane and nitrous oxide.
- A small number of large facilities are responsible for the majority of methane emissions. Mitigating emissions from the most concentrated facilities would make a large impact on total emissions.
- Food processing is energy intensive and releases carbon dioxide. New York has over 2,600 food processing facilities.<sup>58</sup>
- About one third of the food produced is wasted. Most of that ends in landfills where it rots and releases methane. This is the largest source of methane emissions in New York State.<sup>59</sup> About 40% of this waste comes from the retail/restaurant stage and about 40% from our homes.

Unfortunately, New York’s climate law roadmap, known as the Final Scoping Plan, does not go far enough to address emissions from the agricultural sector. The legislature should consider policies that fill the gaps left in the Final Scoping Plan, including by not limited to:

- **Uniform Food Date Labeling**, (detailed earlier in our testimony) to require companies to use uniform terms to communicate food quality dates and safety dates and to educate consumers about their meanings, which will help consumers save money while reducing the environmental impacts of food waste.
- **Good Food New York (S.6955/A.7264 of 2024)**, which would allow municipalities to prioritize values-based standards for food procurement.
- **Climate Corporate Data Accountability Act (S.897C/A.4123B of 2024)**, which requires companies that do business in New York and have revenues exceeding one billion dollars to annually report their complete scope 1, 2, and 3 greenhouse gas (GHG) emissions

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<sup>56</sup> EPA (2022). Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2020. U.S. Environmental Protection Agency, EPA 430-R-22-003. <https://www.epa.gov/system/files/documents/2022-04/us-ghg-inventory-2022-chapter-5-agriculture.pdf>; Center for International Environmental Law. (2022). Fossils, Fertilizers, and False Solutions. [www.ciel.org/wp-content/uploads/2022/10/Fossils-Fertilizers-and-False-Solutions.pdf](http://www.ciel.org/wp-content/uploads/2022/10/Fossils-Fertilizers-and-False-Solutions.pdf)

<sup>57</sup> IPCC. (2007). *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change*. [Solomon, S. et al. (eds.)]. Cambridge University Press. Cambridge, United Kingdom. 996 pp.

<sup>58</sup> USDA. (2021). Food and beverage manufacturing. US Dept of Agriculture. [www.ers.usda.gov/topics/food-markets-prices/processing-marketing/manufacturing/](http://www.ers.usda.gov/topics/food-markets-prices/processing-marketing/manufacturing/)

<sup>59</sup> Find the final scoping plan at: <https://climate.ny.gov/resources/scoping-plan/>



### *Re-Pass Good Food New York*

Currently, New York State food procurement laws require that local governments and institutions choose the lowest responsible bidder without considering other criteria. These laws, which have not been updated for over fifty years, are among the most restrictive in the nation and do not take into account the many externalities associated with food production and distribution.

The Good Food New York bill would permit local governments to adopt values-based standards for food procurement based on the national Good Food Purchasing Program (GFPP). These standards include benefits to local economies, environmental sustainability, valued workforce, animal welfare, nutrition, and racial equity. The law would allow local governments to select bids that fulfill one or more of these values provided their cost is no more than 10% greater than the cost of the lowest bid for that project.

This new model will push large contractors to improve their practices and move toward more ethical, clean, and climate-friendly production and supply practices. It will also expand access to opportunities for small and historically marginalized farmers, producers, and suppliers, who may not be able to achieve competitive pricing under the current procurement model. The bill allows New York municipalities to use their tremendous buying power to support safe, healthy, and sustainable food production and influence the market not just regionally, but nationwide.

Earthjustice supports this bill for both its climate benefits, as well as its consideration of the effects of food contracts on local economies, workers, public health, and animals. We envision a holistic food system, of which environmental sustainability is just one component. The Good Food New York bill will enable municipalities to invest in local business and promote practices that work for people, animals, and the planet. By implementing the Good Food New York bill, New York can help create a food system that nourishes our communities, celebrates our work force, treats animals with compassion, and protects the planet.

### *Pass the Climate Corporate Data Accountability Act*

Climate change threatens every district in New York State – affecting food and drinking water supplies, public health, infrastructure, and the economy. However, there are critical information gaps in our understanding of corporate GHG emissions, with few companies publicly disclosing their full carbon footprints and growing evidence of corporate greenwashing efforts. We need mandatory, transparent GHG emissions disclosure requirements to fully understand corporate pollution and address the climate crisis.

Currently, public information on companies' GHG emissions is often unavailable or hard to find. Many companies do not publicly report their emissions at all, while even published disclosures are often partial or incomplete, omitting major sources of emissions. This leaves companies who publish full, transparent disclosures at a disadvantage to those who try to hide. This voluntary reporting system leaves huge gaps in climate emissions data, hindering the efforts of the public, policymakers, and regulators to drive down GHG emissions as quickly and cost-effectively as possible. Current disclosure practices also do not provide investors and consumers with the information they need to properly account for climate risks in their purchasing and



investment decisions, a key concern for New York, the nation’s financial capital. The Climate Corporate Data Accountability Act will ensure that large businesses disclose their GHG emissions in a consistent, reliable, and comparable way.

History has shown that reporting requirements encourage companies to find cost effective ways to dramatically reduce pollution. For example, between 1988, when facilities were first required to report toxic chemical releases under the Emergency Planning and Community Right to Know Act’s Toxic Release Inventory Program, and 2002, total disposal and release of toxic chemicals decreased by 49 percent. Consumer, shareholder, and community activism in response to public reports of chemical releases contributed markedly to this decline. Accurate and complete greenhouse gas emissions data can similarly help New York achieve its climate goals.

It is critical that reporting include supply chain emissions that occur throughout a company’s value chain, known as Scope 3 emissions, which on average account for 75% of companies’ total GHG emissions. Measuring Scope 3 emissions is critical to understand companies’ total climate footprint and to reduce emissions throughout the supply chain. Disclosures that only cover Scope 1 and 2 emissions would be incomplete and deeply misleading. Limited disclosures would also allow companies to claim lower emissions their reported emissions simply by outsourcing emissions intensive activities.

Disclosure of GHG emissions, including scope 3 emissions, is not only necessary, but also doable. The Act only applies to the largest companies with over \$1 billion in annual revenue, requiring them to use the globally recognized Greenhouse Gas Protocol to calculate their emissions. Existing models and tools based on this protocol can help companies estimate scope 3 emissions without requiring onerous data collection from every part of the company’s supply chain. To further reduce the burden on any reporting entity, the Act is also intentionally structured to streamline reporting and ease of use in meeting the requirements of other disclosure programs.

Climate disclosures are essential to inform policymaking, empower the public to hold polluters accountable, and incentivize the private sector to drive down corporate GHG emissions. By passing the Climate Corporate Data Accountability Act, New York can lead the way and usher in a new era of GHG emissions transparency.

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Thank you for the opportunity to testify today. Earthjustice looks forward to working with the legislature to ensure New York’s final SFY2025-26 budget rises to the challenges New Yorkers face from the climate crisis, costly energy bills and other environmental pollution.