



Defending Drinking Water

Agency in Crisis: New York's Department of Environmental Conservation

Clean Water Quandary

New Yorkers use eight billion gallons of water every day for drinking, agriculture, nuclear and fossil fuel power, and industrial and manufacturing uses. But because of limited and diminishing resources, New York's Department of Environmental Conservation (DEC) is struggling to protect our drinking water, fisheries and aquatic habitat.

Lowlights

- Since 1990, staff at the DEC's Division of Water has been cut by 72 positions while responsibilities doubled.
- By the end of the 2009-10 State Fiscal Year, the Division of Water will have lost an additional 30 staff.
- The DEC tested 94% fewer effluent samples in 2008 than in 1990.
- New York has only 9 staff to oversee the safety of 5,663 dams.

Since 2001, the number of polluters in New York State that need a permit to discharge wastewater has doubled. Although there has been no increase in staff or resources at the DEC's Division of Water, the State now requires new sources of pollution such as factory farms and construction sites to report pollution and meet regulations. As a result, the DEC has a difficult time keeping up with federal and state responsibilities and inspections, putting our waters at risk.

New York needs more staff to protect our waters from pollution.

Regulating Water Quality

The DEC protects water quality by setting standards for dam safety, regulating water pollution from factories and sewage plants, controlling storm water runoff from construction sites and factory farms, and protecting water from emerging threats such as pharmaceutical waste and natural gas drilling. The staff that oversee water quality are funded by state and federal

dollars, as well as special revenues from permit fees and fines.

The budget for the DEC's Division of Water has been significantly cut in the last two decades despite a growing list of responsibilities. In 1990 the Division had 339 staff, but by 2009 only 267 staff were safeguarding our waters. The agency anticipates having only 237 staff at the end of the current fiscal year due to the hiring freeze and retirement incentives. Overall, money directed to the Air and Water Quality Program declined by one percent from State Fiscal Year (SFY) 2005-06 to 2009-10 (accounting for inflation). And without 2009 federal stimulus dollars, overall appropriations would have decreased by 11 percent.

Both federal and special revenue sources that fund the Division of Water have declined in recent years, leaving taxpayers to make up the difference. For example, the Great Lakes special revenue account decreased by 15.8 percent in the last five years. Without stimulus funds, federal dollars for water programs would have declined by almost 43 percent. Even with stimulus dollars, the federal water grants category declined by 28 percent (accounting for inflation) since SFY 2005-06. Of 267 current staff in the Division of Water, 98 are federally funded, down from 114 in 2001.

Agency in Crisis Series

The health and safety of all New Yorkers depends on the DEC to successfully implement existing state and federal environmental laws. This brief is the third in a series that takes a detailed look at DEC operations, appropriations and staff levels. Based on agency budget documents and information requests, Environmental Advocates of New York is investigating the extent to which state and federal responsibilities are being honored and which are getting the short shrift. For more information about this project and our Fiscal Policy Program, visit www.eany.org or contact Alison Jenkins at 518-462-5526.



Permitting Water Pollution

New York State Environmental Conservation Law prohibits discharges of pollutants into state waters without a permit. Under the federal Clean Water Act, New York protects our water from industrial polluters, sewage treatment plants and runoff by means of the State Pollutant Discharge Elimination System (SPDES) program. Environmental Advocates of New York has highlighted problems with the SPDES program, documenting how a chronic lack of resources has led to a crisis—more than 1,000 polluters have not undergone the federally required five-year permit review in more than a decade; some permits have not been reviewed for more than 20 years. Further information can be found in Environmental Advocates' reports *Muddying the Waters* and *Permission to Pollute*, available at www.eany.org.

Any facility that discharges into surface water needs a permit, including manufacturers, power plants and sewage treatment plants. Permit enforcement is based on self-reported information. In 1990, the DEC sampled effluent 1,113 times to verify polluters' reports. In 2008, the DEC took 112 samples, a 94 percent decrease, because of staff shortages and greater responsibilities. This lack of testing and oversight puts New York's drinking water, fishing streams and beaches at risk.

Threats to our waters are growing. The newest threat is the rush to exploit natural gas reserves in the Marcellus Shale, a rock formation under the Southern Tier and Catskills regions. Natural gas drilling by means of hydraulic fracturing, often called "fracking," is water intensive—requiring 2.5 to 8 million gallons of water per well—and will produce salt-laden, toxic wastewater. New York's Division of Water will need increased staff and resources to oversee the safe handling and disposal of this industrial waste.

New York must ensure that water is obtained sustainably and wastewater is treated and disposed of responsibly. This critical duty cannot be met by current staff levels. Each new well will likely need a construction storm water permit and a multi-sector general permit, and any wastewater treatment plant that accepts industrial waste water will require a permit modification. In addition, according to the DEC, an inspector should be on-site for the drilling of each natural gas well, further increasing staff workload.

Storm Water

Storm water runoff is a significant source of water pollution. The DEC issues permits for storm water runoff from construction sites, industrial sites such as junkyards, municipal storm sewers and concentrated animal feeding operations (CAFOs). Farm runoff can carry manure into streams and lakes, creating algae blooms that choke out plant and animal life. Storm water runoff from construction sites carries sediments and toxins into sewers and nearby waterways. Heavy rains can cause combined sewer systems to dump raw sewage and waste into rivers and lakes resulting in unsafe swimming conditions and closed beaches.

According to Natural Resources Defense Council's report, "Testing the Waters," New York had 846 closing/advisory events lasting up to six consecutive weeks in 2008, 84 percent of which were due to storm water runoff.

DEC staff inspected nine percent, or 778 of 11,331 covered storm water runoff sites in SFY 2008-09. Approximately 30 staff are responsible for these inspections; the agency expects increased staff losses due to retirement incentives.

Dam Safety & Flood Protection

The DEC has nine staff to oversee 5,663 dams, 391 of which are classified as "high hazard" dams. These nine people oversee dam safety and flood protection for the entire state. Between four and five positions are unfilled and that number is expected to increase due to the current hiring freeze and the retirement incentive program.

The DEC Needs More Staff to Inspect Polluters & Protect New Yorkers

Without adequate staff to inspect industrial, municipal, construction and farm water discharges, the health of New York's waters, as well as that of New Yorkers, is at risk. The State needs to dedicate additional resources to environmental protection and community welfare.

Without the employees to do the work, water quality cannot be tracked and new contamination cannot be prevented. When funding is reduced, the agency is reduced to focusing solely on core activities rather than investigating critical issues such as watershed planning or emerging issues such as pharmaceutical waste and natural gas drilling. New York State dedicates hundreds of millions of dollars every year to clean up the State's legacy of toxic contamination. By dedicating resources to enforce existing laws today, we may be able to avoid expensive and dangerous situations in the future.

