



U.S. Environmental Protection Agency

**Public Hearing on Proposed Rule:
“Repeal of Carbon Pollution Emission Guidelines for Existing
Stationary Sources: Electric Utility Generating Units”**

November 29, 2017

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Written Testimony of Michael J. Myers on
EPA's Proposed Repeal of Clean Power Plan

I am pleased to testify on behalf of New York State Attorney General Eric T. Schneiderman on the critical issue of EPA's responsibility to limit carbon pollution from power plants under the Clean Air Act. Attorney General Schneiderman has been proud to lead states and cities defending the Clean Power Plan in court.

EPA issued the Clean Power Plan under Clean Air Act section 111, a provision of the law the Supreme Court said "speaks directly" to limiting carbon dioxide from power plants.¹ In section 111, Congress directed EPA to require that large stationary sources—like power plants—control their air pollution that endangers public health and welfare. Under EPA oversight, states are charged with ensuring that existing sources apply the best system of emission reduction to limit that pollution. As New York explained in its filings in the litigation, and as we will do again in our written comments on the proposed repeal, the Clean Power Plan is well grounded in the law and the science while respecting state authority.

But in my brief remarks today I will focus on two basic reasons why New York is a staunch defender of the Clean Power Plan: It is doable and necessary.

First, New York supports the Clean Power Plan because it is doable. We know that because the Plan is based in large part on state laws that have successfully cut carbon pollution from power plants by even greater amounts and in even less time than called for under the rule.

For example, EPA cited in its rulemaking the success of the Regional Greenhouse Gas Initiative (RGGI). Under RGGI, New York and eight other states have shown that substantial carbon pollution cuts from existing fossil fuel power plants are achievable by encouraging shifts to less carbon-intensive generation, increasing use of renewable energy, and reducing demand through energy efficiency.

RGGI has been an unqualified success. The nine participating states created a regional cap-and-invest system pursuant to which they limit carbon pollution from power plants and use the proceeds from auctioning emission allowances to invest in programs that reduce energy demand and keep down prices. Since RGGI

¹ *American Elec. Power Co. v. Connecticut*, 564 U.S. 410, 424 (2011)

launched in 2008, our states have succeeded in reducing CO₂ emissions from the power sector by 40 percent.² A 2015 report from the Nicholas Institute at Duke University found that RGGI was responsible for more reductions through 2014 than fuel switching to natural gas or the global economic downturn unrelated to RGGI.³

The decline in carbon pollution has been accompanied by reductions in other harmful pollutants, such as sulfur dioxide, nitrogen oxides, and mercury. In a recent report, Abt Associates found that RGGI was directly responsible for a substantial share of the reduction in criteria air pollutants from 2009-14, avoiding hundreds of premature deaths and tens of thousands of lost work days.⁴

New York and other RGGI states have used the proceeds from allowance auctions to fund investments in energy efficiency, further reducing demand and generating large net economic benefits. This has helped our states achieve greater economic growth and lower electricity prices compared to other regions of the country. Specifically, average electricity prices across the region have decreased by 6.4 percent since RGGI took effect, while electricity prices in non-RGGI states have increased by an average of 6.2 percent. And since RGGI began, member states have reduced emissions by 15 percent more than other states and experienced 4.3 percent more economic growth.⁵

The facts demonstrate that RGGI is a clear economic-booster and job-creator. Between 2012 and 2014 alone, RGGI added \$1.3 billion in economic

² Acadia Center, *Outpacing the Nation: RGGI's environmental and economic success* (Sept. 2017) ("Acadia Ctr. 2017 Report"), at 3, available at http://acadiacenter.org/wp-content/uploads/2017/09/Acadia-Center_RGGI-Report_Outpacing-the-Nation.pdf

³ Brian Murray and Peter Maniloff, *Why Have Greenhouse Emissions in RGGI States Declined? An Econometric Attribution to Economic, Energy Market, and Policy Factors*, Duke Nicholas Institute (Aug. 2015), publication available at: <https://nicholasinstitute.duke.edu/environment/publications/why-have-greenhouse-emissions-rggi-states-declined-econometric-attribution-economic>

⁴ Michele Manion, et al., *Analysis of the Public Health Impacts of the Regional Greenhouse Gas Initiative, 2009-2014* (Jan. 2017), Abt Associates, at 1-2, available at: <http://www.abtassociates.com/AbtAssociates/files/7e/7e38e795-aba2-4756-ab72-ba7ae7f53f16.pdf>

⁵ Acadia Center 2017 Report at 3

value, and created over 14,000 job-years, in the region.⁶ That's on top of the \$1.6 billion in economic value and 16,000 jobs RGGI created in its first three years.⁷

RGGI BENEFITS

Pollution Reduction Benefits (2009-2015)¹

- Cut CO2 emissions from the power sector by 40% below 2008 levels

Economic Benefits (2012-2014)²

- Added \$1.3 billion in economic value (on top of \$1.6 billion created 2009-2011³)
- Created over 14,000 job-years (on top of 16,000 job-years created 2009-2011³)

Health Benefits (2009-2014)⁴

- Generated up to \$8.3 billion in health savings
- Avoided up to 830 deaths
- Avoided up to 9,900 asthma aggravations
- Avoided up to 16,000 respiratory illnesses
- Avoided up to 390 heart attacks
- Resulted in up to 47,000 fewer lost work days

Investment Benefits (2008-2014)⁵

- Saved \$629 million (\$4.67 billion lifetime) in energy bills for >4.6 million households and >21 thousand businesses
- Saved 2.4 million MWh (\$20.6 million lifetime) of electricity
- Avoided 5.3 million MMBtu (76.1 million MMBtu lifetime) in fossil fuel use
- Avoided 1.7 million tons (15.4 million tons lifetime) of CO₂ emissions

¹ Acadia Center. *Outpacing the Nation: RGGI's Environmental and Economic Success*. September 2017.

² Analysis Group. *The Economic Impacts of the Regional Greenhouse Gas Initiative on Nine Northeast and Mid-Atlantic States*. July 14, 2015.

³ Analysis Group. *The Economic Impacts of the Regional Greenhouse Gas Initiative on Ten Northeast and Mid-Atlantic States*. November 15, 2011.

⁴ Abt Associates. *Analysis of the Public Health Impacts of the Regional Greenhouse Gas Initiative, 2009-2014*. January 2017.

⁵ The Regional Greenhouse Gas Initiative. *The Investment of RGGI Proceeds Through 2014*. September 2016.

In sum, RGGI has improved New Yorkers health, reduced climate risks and stimulated economic growth – a win, win, win.

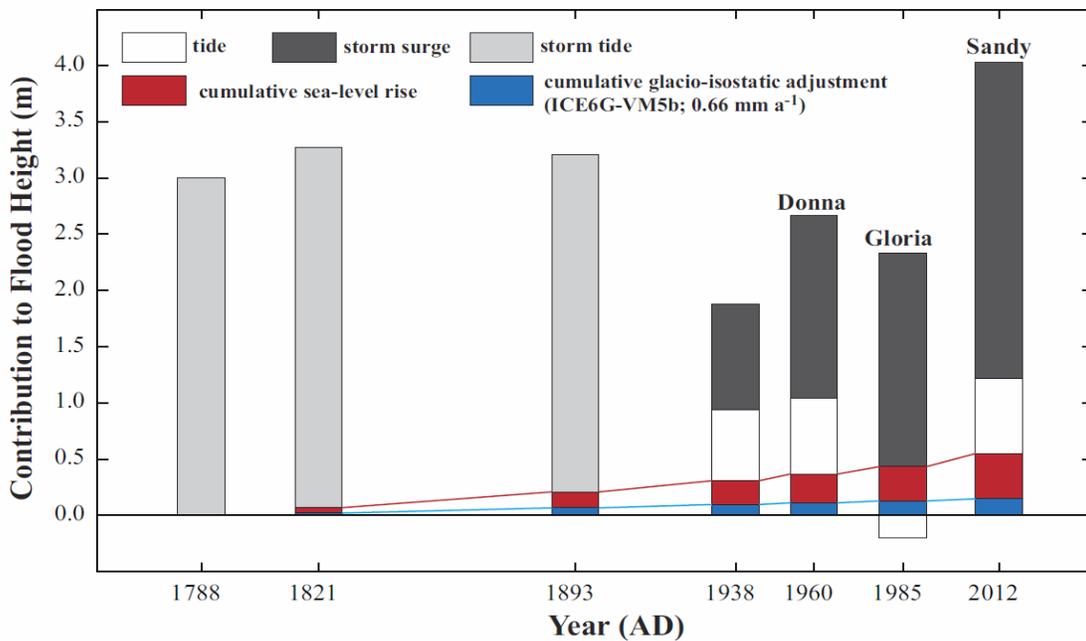
⁶ Analysis Group, *The Economic Impacts of the Regional Greenhouse Gas Initiative on Nine Northeast and Mid-Atlantic States* (July 14, 2015) at 5, 10, available at: http://www.analysisgroup.com/uploadedfiles/content/insights/publishing/analysis_group_rggi_report_july_2015.pdf

⁷ Analysis Group, *The Economic Impacts of the Regional Greenhouse Gas Initiative on Ten Northeast and Mid-Atlantic States* (Nov. 15, 2011), (“Analysis Group 2011 Report”) at 2, available at: www.analysisgroup.com/uploadedfiles/publishing/articles/economic_impact_rggi_report.pdf

New York also strongly supports the Clean Power Plan as a necessary step to reduce harmful greenhouse gas emissions from one of its largest sources. The rule requires all states to combat a major source of carbon pollution that is endangering the health and welfare of the residents of New York and other states.

I'll briefly mention three of these threats New York is facing:

- Flooding worsened by sea level rise.*** The twelve inches of sea level rise New York City has experienced in the past century exacerbated the flooding caused by Hurricane Sandy by about twenty-five square miles, damaging the homes of an additional 80,000 people in the New York City area alone.⁸ That flooding devastated areas of New York, including the Brooklyn-Queens Waterfront, the East and South Shores of Staten Island, South Queens, Southern Manhattan, and Southern Brooklyn, which in some areas lost power and other critical services for extended periods of time.



Estimated Contribution to Flood Heights in New York City for Notable Historical Hurricanes

Source: Kemp et al. (2013), Contribution of relative sea-level rise to historical hurricane flooding in New York City, *Journal of Quaternary Science* 28(6), 537-541.

⁸ New York City Panel on Climate Change 2015 Report, Chapter 2: Sea Level Rise and Coastal Storms. Ann. N.Y. Acad. Sci. ISSN 0077-8923, available at: <http://onlinelibrary.wiley.com/doi/10.1111/nyas.12593/full>

The costs of Hurricane Sandy to New York alone will likely top \$40 billion, including \$32.8 billion to repair and restore damaged housing, parks and infrastructure and to cover economic losses and other expenses. That figure includes \$9.1 billion to help mitigate and prevent potential damages from future severe weather events.⁹

- ***More extreme storms.*** The increase in extreme rainfall already being observed across New York is consistent with scientists' predictions of the alteration of historical weather patterns resulting from climate change. In 2014, Attorney General Schneiderman released a report, Current and Future Trends in Extreme Rainfall Across New York State,¹⁰ which highlights dramatic increases in the frequency and intensity of extreme rain storms across New York.

For example, in 2011, Hurricane Irene dropped more than 11 inches of rain in just 24 hours, causing catastrophic flooding in the Hudson Valley, eastern Adirondacks, Catskills and Champlain Valley. Thirty-one counties were declared disaster areas. Over one million people were left without power, more than 33,000 had to seek disaster assistance, and 10 were killed. Damage estimates totaled \$1.3 billion.

⁹ See State of New York, *Governor Cuomo Holds Meeting with New York's Congressional Delegation, Mayor Bloomberg and Regional County Executives to Review Damage Assessment for the State in the Wake of Hurricane Sandy*, available at: <https://www.governor.ny.gov/news/governor-cuomo-holds-meeting-new-yorks-congressional-delegation-mayor-bloomberg-and-regional>

¹⁰ *Current & Future Trends in Extreme Rainfall Across New York State, A Report from the Environmental Protection Bureau of New York State Attorney General Eric T. Schneiderman* (Sept. 2014) (based on data from the 2014 National Climate Assessment and the National Oceanographic and Atmospheric Administration's Northeast Regional Climate Center), available at: https://ag.ny.gov/pdfs/Extreme_Precipitation_Report%209%202%2014.pdf

Hurricane Irene Flooding



Image from ABC 7 Eyewitness News

Similarly, in August 2014, a weather front stalled over Long Island, dumping more than 13½ inches of rain—nearly an entire summer’s worth—in a matter of hours and breaking the state’s rainfall record. That deluge flooded out over 1,000 homes and businesses, opened massive sinkholes on area roadways, and forced hundreds to evacuate to safer ground. Initial damage estimates exceeded \$30 million.

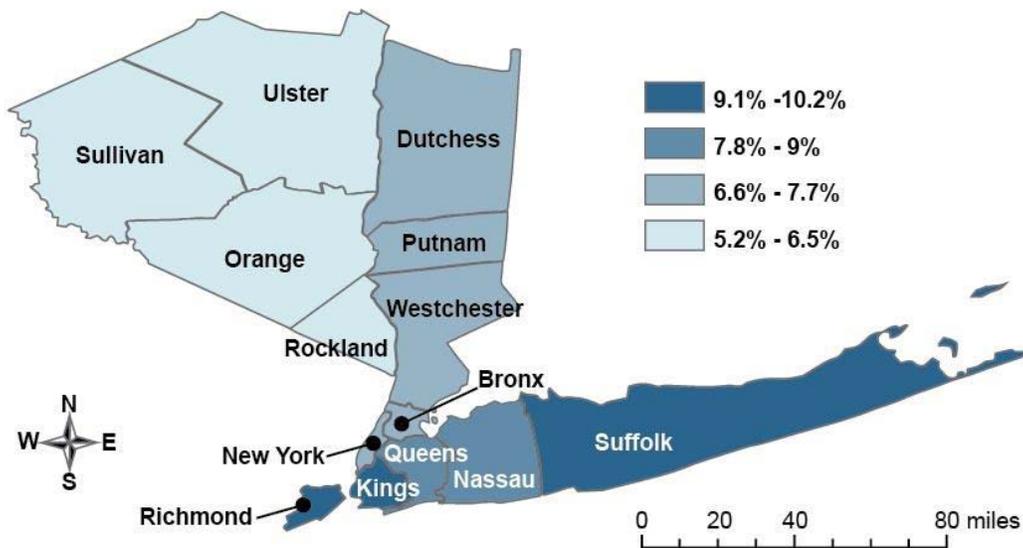
Historic Long Island Flash Flooding



Image from NYTimes (Andrew Theodorakis/Getty Images)

- More premature deaths and asthma attacks from smog.** Although New York and EPA have taken a number of actions to reduce pollutants such as nitrogen oxides and volatile organic compounds that contribute to ground level ozone (smog) formation, ozone pollution remains a persistent problem. Much of New York City and Long Island have not attained the 2008 ozone standards, much less the more protective 2015 standards. A significant amount of the pollutants that contribute to smog is generated in upwind states and carried by prevailing winds into New York and other northeastern states. As the climate warms, increased temperatures create more favorable conditions for the formation of smog. According to the Third National Assessment on Climate Change, for example, under a scenario in which greenhouse gases continue to increase, this would lead to higher ozone concentrations in the New York metropolitan region, driving up the number of ozone-related emergency room visits for asthma in the area by 7.3 percent--more than 50 additional ozone-related emergency room visits per year in the 2020s, compared to the 1990s.¹¹ The figure below, included in that report, shows that projected worsening in asthma cases in the New York City area.

Climate Change Projected to Worsen Asthma



¹¹ U.S. Global Change Research Program, *2014 Third National Assessment on Climate Change*, at 222 (citing Sheffield, P. E., J. L. Carr, P. L. Kinney, and K. Knowlton, 2011: Modeling of regional climate change effects on ground level ozone and childhood asthma. *American Journal of Preventive Medicine*, 41, 251-257, available at <http://download.journals.elsevierhealth.com/pdfs/journals/0749-3797/PIIS0749379711003461.pdf>)

The Clean Power Plan is an important step in beginning to address these climate change harms. For example, EPA estimates beginning in 2030, the Clean Power Plan would on a yearly basis save between 1,500 and 3,600 lives and prevent 90,000 asthma attacks in children in the United States.¹²

Administrator Pruitt however, has demonstrated little interest in hearing facts that don't fit with his longstanding desire to eliminate the Clean Power Plan, which was underscored by his ignoring the requests of fourteen states and cities for additional hearings so that our residents can voice their concerns to the agency directly. These requests can be found on the Attorney General's website (www.ag.ny.gov/bureau/environmental-protection-bureau). And if EPA will not bring these important hearings to our states, we will bring the hearings to them. The Attorney General along with the Mayor of the City of New York and others will be holding a public forum in New York in mid-December to ensure the ability of our residents to be heard.

Last year, EPA told the D.C. Circuit that “[n]o serious effort to address the monumental problem of climate change can succeed without meaningfully limiting [power] plants’ CO₂ emissions.”¹³ Those words are no less true today, despite the change in federal administration. The Clean Power Plan is a necessary and workable response to that challenge. EPA should abandon its proposed repeal, which if finalized would put health, environment, jobs, and prosperity of New York residents at great risk.

Thank you.

¹² See U.S. EPA, *Fact Sheet, The Clean Power Plan, By the Numbers* at 2, available at: <https://archive.epa.gov/epa/sites/production/files/2015-08/documents/fs-cpp-by-the-numbers.pdf>

¹³ EPA Final Brief in *West Virginia v. EPA*, D.C. Cir. No. 15-1363 (Doc. #1609995, filed April 22, 2016), at 61