



Environmental Funding in New York State

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Executive Summary

Created in 1970, the New York State Department of Environmental Conservation (DEC) is responsible for most of the State's programs to protect wildlife, natural resources and environmental quality. DEC programs range widely from managing fish and game populations and overseeing the extraction of natural resources to monitoring the discharge of pollutants and hazardous materials and cleaning up contaminated sites.

These services are integral to New Yorkers' public health and general well-being, and to the State's economy. As part of the Office of the State Comptroller's commitment to promoting transparency, accountability and sound fiscal management in State government, this report examines DEC funding from State Fiscal Year (SFY) 2003-04, the year that the Brownfield Cleanup Program was enacted, to the end of SFY 2013-14.

The scope of the DEC's mandate has expanded considerably since its inception, and has continued to grow during the period examined in this report. Recent initiatives from the Legislature, the Executive and federal agencies that require DEC action have included development of a climate action plan, regulation of shale gas production, addressing threats associated with crude oil transportation, implementation of new federal clean air standards and management of varied programs aimed at mitigating specific types of pollution.

As this report details, the number of DEC Full-Time Equivalent staff declined by more than 300 from SFY 2003-04 through SFY 2013-14. All Funds spending rose 27.8 percent over that same period. When adjusted for inflation, spending was nearly flat, with a cumulative increase of 1.7 percent over the period examined. According to the Division of the Budget (DOB), DEC All Funds spending is projected to decline over the next several years.

During the period examined in this report, State Funds spending by the DEC reached a peak in SFY 2007-08, and as of SFY 2013-14 was down 15.1 percent from that level. Federal dollars, including funding through the federal stimulus program, bolstered the DEC's budget substantially during the period, but federal support is expected to decline to around its pre-stimulus level this fiscal year. The State's current Financial Plan projects that State Funds disbursements by the DEC will decline in each of the next three fiscal years.

New York has created a number of dedicated funds for environmental purposes in an effort to provide a reliable flow of resources to address long-term needs. At times, however, the State has resorted to sweeps from certain of these funds to provide budget relief, undermining the purpose of the dedicated funds.

New York has a limited process in place to estimate and prioritize the level of capital investment needed for State and local government infrastructure. While the New York Works initiative has improved the State's capital planning efforts, establishment of a comprehensive process to identify and prioritize capital needs could provide a clearer picture of whether current levels of investment for environmental purposes are adequate.

The combination of increased responsibilities, reduced staffing, and ongoing fiscal pressure raises questions regarding the DEC's capacity to carry out its critical functions. A prudent and effective response to the challenges of paying for New York's environmental needs may require multiple components including improved efficiency and refined design of certain existing programs, as well as reconsideration of appropriate funding levels. This report is intended to assist State policy makers and the public in assessing these critical issues.

Department of Environmental Conservation

Background

The New York State Department of Environmental Conservation (DEC) was created in 1970. Chapter 140 of the Laws of 1970 transferred the duties of the Conservation Department to the DEC along with certain duties of the Department of Health and the Department of Agriculture and Markets. This statute combined most of the State's programs to protect wildlife, natural resources and environmental quality in one State agency.

The DEC implements a broad array of management and regulatory programs, including:

- Permitting and overseeing the operation of facilities that manage hazardous wastes, municipal wastes and sewage.
- Regulating discharges of pollution to State water bodies.
- Issuing air pollution permits, or registrations, for power plants, factories and other facilities such as dry cleaners that have the potential to emit air pollutants.
- Managing State wildlife populations and issuing licenses to hunt, trap and fish.
- Overseeing mining and oil and gas extraction in New York State.
- Administering State-owned lands, boat launches and campsites in the Adirondack and Catskill Parks, and administering State reforestation lands, wildlife management lands and fishing access sites in the rest of the State.
- Conducting cleanups of contaminated sites under the State Superfund Program and monitoring cleanups undertaken through the State Environmental Restoration and Brownfield Cleanup Program.
- Assessing risks to the State's environment related to climate change and developing plans to mitigate these risks.

DEC programs are integral to the functioning of society in New York State. Many businesses, while creating jobs and other economic benefits, also release pollutants into the State's air, waterways and grounds. Municipalities must deal with wastes from residential, commercial and nonprofit-owned properties. The DEC is charged with implementing State and federal laws and regulations to mitigate these hazards.

The DEC is also charged with managing the extraction of natural resources to ensure that these activities do not damage the surrounding environment and, with regard to resources such as fish and wildlife, to ensure that populations can be sustained over time. Among other responsibilities, as of 2014, the DEC regulates, remediates, administers and/or monitors:

- 20,000 permits under the State Pollutant Discharge Elimination System (SPDES), established to implement the federal Clean Water Act in New York.¹
- 12,700 air pollution permits.²
- 4,450 contaminated sites under the New York State Superfund, Brownfield Cleanup, Environmental Restoration, and Voluntary Cleanup programs.³
- 12,280 spills of toxic substances between October 17, 2013 and October 17, 2014.⁴
- 39,780 active chemical and petroleum bulk storage facilities.⁵
- 285 State Forests comprising 787,000 acres.⁶
- 85 Wildlife Management Areas comprising 200,000 acres.⁷
- 2.9 million acres of forest preserve and 52 campgrounds in the Adirondack and Catskill Parks.
- 53 endangered species, 35 threatened species and 58 species of special concern.
- More than 100 game fish and game animal species.
- 12 fish hatcheries, raising 11 species of game fish and several endangered species, as well as the Richard E. Reynolds Game Farm which raises pheasants for release.
- 4 summer youth camps.

Other agencies play significant roles in protecting the State's environmental quality and natural resources. The Department of Parks, Recreation and Historic Preservation manages State parks and historic properties outside of the Adirondack

¹ SPDES Compliance and Enforcement Annual Report for SFY 2012/13. www.dec.ny.gov/docs/water_pdf/2012annualrpt.pdf.

² Division of Air Resources: Compliance and Enforcement Summary FFY 2013. www.dec.ny.gov/docs/air_pdf/cesummary2013.pdf.

³ Environmental Site Remediation Database. www.dec.ny.gov/cfm/externalapps/derexternal/haz/results.cfm?pageid=3. Accessed on October 17, 2014.

⁴ DEC Spill Incidents Database. Accessed on October 17, 2014.

⁵ DEC Bulk Storage Database. Accessed on October 17, 2014. www.dec.ny.gov/cfm/externalapps/derexternal/abs/results.cfm?pageid=4.

⁶ See www.dec.ny.gov/lands/40672.html.

⁷ See www.dec.ny.gov/outdoor/7768.html.

and Catskill Parks, while the Department of Agriculture and Markets administers programs to assist farmers in limiting environmental impacts. The Department of Health evaluates public health risks from pollution and manages the State's drinking water program. The work of these agencies is beyond the scope of this report.

Just as the DEC's success in fulfilling its mandates benefits individual New Yorkers as well as the State's economy generally, so too any failure to meet its responsibilities would have broadly negative impacts. Obvious examples could include harm to public health, degradation of air and water quality, and decline of wildlife populations. If sewage treatment facilities or hazardous waste disposal facilities are not operated and overseen properly, water sources may be unfit for drinking, recreational use or business and industrial use.

For example, in the Capital District, sewage treatment plants discharging into the Hudson River often fail to adequately treat sewage during periods of intense rain. Such discharges make the river unsuitable for swimming or fishing for days after the event.⁸

Similarly, if air emissions from factories or power plants are excessive, such pollution may expose communities to higher risk of short-term health impacts, including increases in hospitalizations and mortality among sensitive populations, and long-term impacts, such as cancer, asthma and other diseases.

DEC enforcement activity recently uncovered long term violations of the Clean Air Act by an industrial plant in Tonawanda, New York. These violations exposed residents to a carcinogen, benzene, and other toxic substances.⁹

Failure to manage wildlife populations sustainably could lead to reductions in species that are important for recreational purposes, or that some New Yorkers rely upon as a source of sustenance. Development projects that may require permits or approvals from the DEC can be postponed if required agency approvals are delayed, potentially hampering job creation and economic growth. For all these reasons and more, the DEC's ability to meet its assigned responsibilities is critically important.

Recent Program Expansions

Since the DEC's creation, new regulatory programs have been added to the agency's list of responsibilities, and newly emerging environmental challenges have required attention. Often, new programs require the development of complex new regulations, involving the promulgation of numerical safety standards for exposure to toxic substances, or the regulation of hazardous industrial processes.

⁸ www.dec.ny.gov/press/95291.html.

⁹ www.dec.ny.gov/chemical/59464.html.

Most of these programs impose new regulatory responsibilities on the agency, such as issuing permits, reviewing reports and conducting inspections to monitor the implementation of regulatory requirements, as well as enforcement and compliance work with parties that violate regulatory standards or that fail to implement permit conditions. A partial listing of environmental challenges and regulatory initiatives that have required new or expanded action by the DEC since 2003 includes:

- The Brownfield Cleanup Program
- The Regional Greenhouse Gas Initiative
- Development of a State Climate Action Plan
- The Waste Tire Recycling and Management Act
- The Diesel Emissions Reduction Act
- Regulation of shale gas development
- Water withdrawal permitting
- The Electronic Equipment Recycling and Reuse Act of 2010
- The Mercury Thermostat Collection Act of 2013
- Regulating mercury emissions from power plants and cement kilns
- Updating State regulations to implement new federal clean air standards
- Invasive species control
- Transportation of crude oil through the State by rail and barge.

In certain cases, these additional responsibilities, which may involve substantial commitments of agency resources by DEC, have not been accompanied by additional staff or funding. Even when initiatives include funding provisions, sometimes these resources may not be adequate to fully cover required agency actions.

A case in point: a recent report by the U.S. Environmental Protection Agency's Inspector General found that permitting fees charged by New York and other states associated with the Clean Air Act were inadequate to fund the full costs of state regulatory programs as required by law. The report found that New York was funding approximately 44 percent of relevant program costs through the General Fund and other appropriations.¹⁰

¹⁰ U.S. Environmental Protection Agency, Office of the Inspector General. "Enhanced EPA Oversight Needed to Address Risks From Declining Clean Air Act Title V Revenues." Report Number 15-P-0006. October 20, 2014.

Environmental Funding

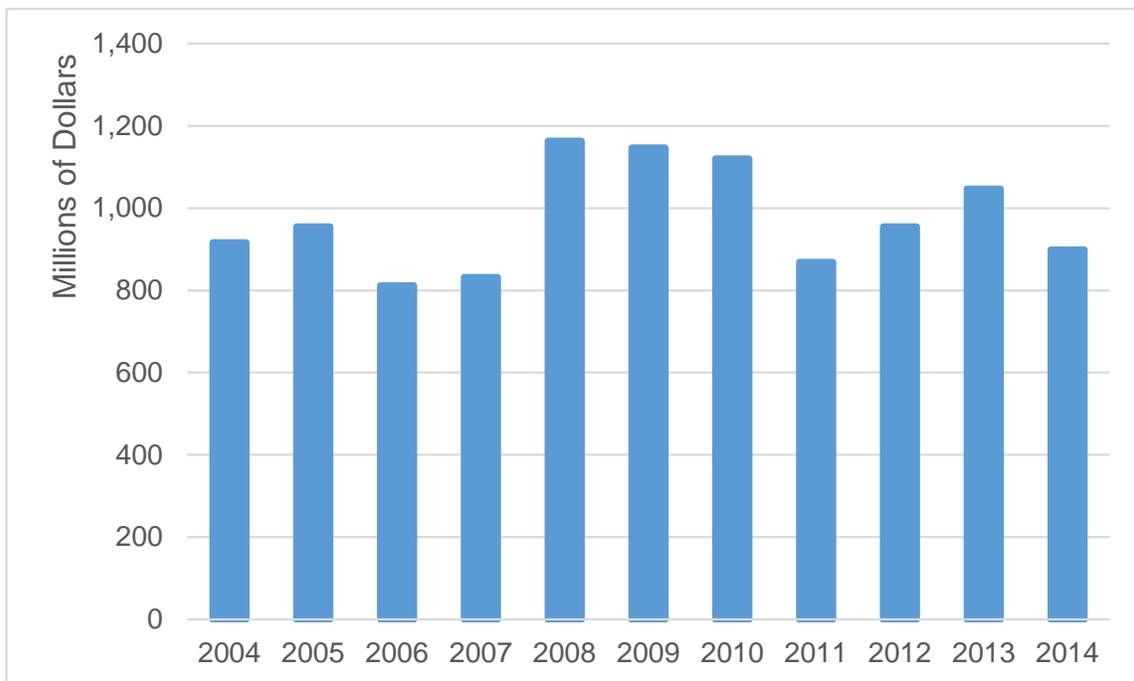
Funding in support of DEC programs comes from appropriations from the State General Fund (primarily tax revenues), from special revenue funds generated by fees for licenses, permits and fines, and from the federal government. Appropriations approved in the State Budget reflect the legal authority to spend during any given State Fiscal Year. They provide an upper limit, or maximum, for spending on a designated program or purpose, while disbursements reflect the actual spending that occurred. Typically, the Division of the Budget (DOB) assigns the DEC and other agencies annual cash disbursement ceilings that are lower than the appropriated levels.

All Governmental Funds Appropriations

As shown in Figure 1, All Funds appropriations for the DEC were \$916.6 million in SFY 2003-04 and \$898.7 million in SFY 2013-14, a reduction of approximately 2 percent. On an inflation-adjusted basis, appropriations fell 22.1 percent. During this period, appropriations reached a high of \$1.2 billion in SFY 2007-08 and a low of \$811.8 million in SFY 2005-06.

Figure 1

DEC All Funds Appropriations – SFY 2003-04 through SFY 2013-14



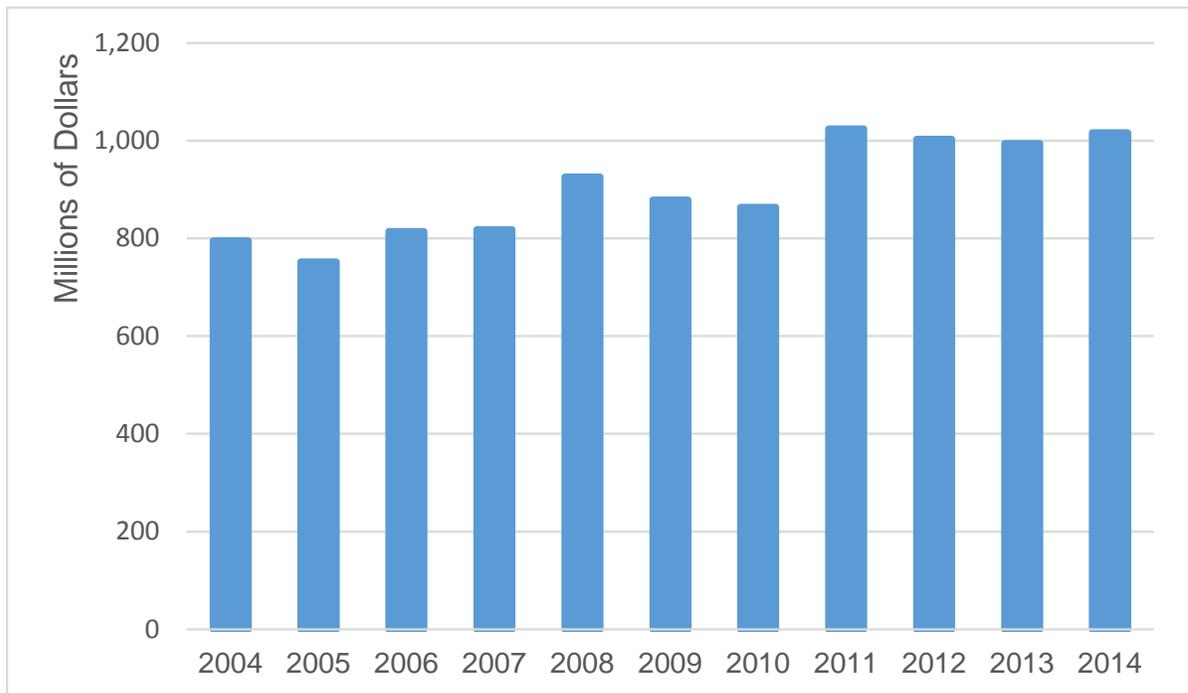
Source: New York State Division of the Budget

All Governmental Funds Disbursements¹¹

As shown in Figure 2, All Funds disbursements were \$795.3 million in SFY 2003-04 and approximately \$1.0 billion in SFY 2013-14, an increase of 27.8 percent. During this period, spending reached a high of \$1.02 billion in SFY 2010-11 and a low of \$752.3 million in SFY 2004-05. After adjusting for inflation, All Funds DEC spending rose by a total of 1.7 percent over the period examined.

Figure 2

DEC All Funds Spending – SFY 2003-04 through SFY 2013-14



Source: New York State Division of the Budget

Spending by Funding Source

As noted earlier, spending on DEC programs comes from various State sources – the General Fund, Capital Projects funds, and Special Revenue funds – as well as federal funds.

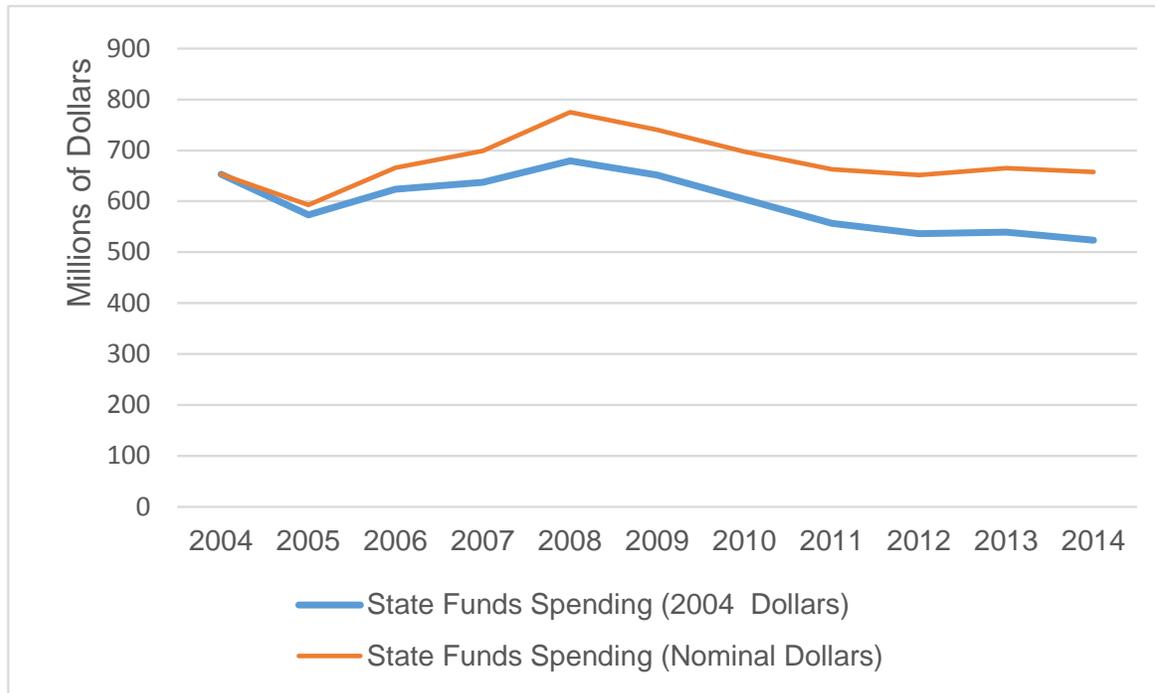
DEC spending from State funds was \$652.7 million in SFY 2003-04 and rose to a peak of \$774.6 million in SFY 2007-08. From that level, it declined by 15.1 percent to \$657.8 million in SFY 2013-14. After adjusting for inflation, State funds

¹¹ Data for historic spending and disbursements illustrated in Figures 1 through 5 originate from www.OpenBudgetNY.gov. These figures illustrate disbursements as recorded by the New York State Division of the Budget.

expenditures declined by a cumulative 19.8 percent over the period. Figure 3 shows spending from State-sourced revenue in support of DEC’s programs, in both nominal and real (inflation-adjusted) terms.

Figure 3

State Funds DEC Spending – SFY 2003-04 through SFY 2013-14



Source: New York State Division of the Budget

General Fund spending on DEC programs declined from \$99.4 million in SFY 2003-04 to \$94.9 million in SFY 2013-14. Over this period, spending levels fluctuated from a high of \$141.8 million in SFY 2007-08 to a low of \$91.0 million in SFY 2012-13. In constant 2004 dollars, General Fund spending on DEC programs declined by 24.1 percent over the period.

DEC spending from State Special Revenue funds rose from \$150.9 million in SFY 2003-04 to \$188.4 million in SFY 2013-14 – an increase in nominal terms, but a decline after adjusting for inflation. Over this period, spending levels ranged from a high of \$201.7 million in SFY 2008-09 to a low of \$150.9 million in SFY 2003-04.

State Capital Projects spending supports a wide variety of DEC initiatives, including open space and farmland preservation, closure of municipal landfills, and storm water and wastewater projects. Such spending was \$402.5 million in SFY 2003-04 and \$374.6 million in SFY 2013-14. Over this period, capital spending levels

fluctuated from a low of \$319.9 million in SFY 2004-05 to a high of \$438.8 million in SFY 2007-08. In constant 2004 dollars, such spending declined by 26.0 percent.

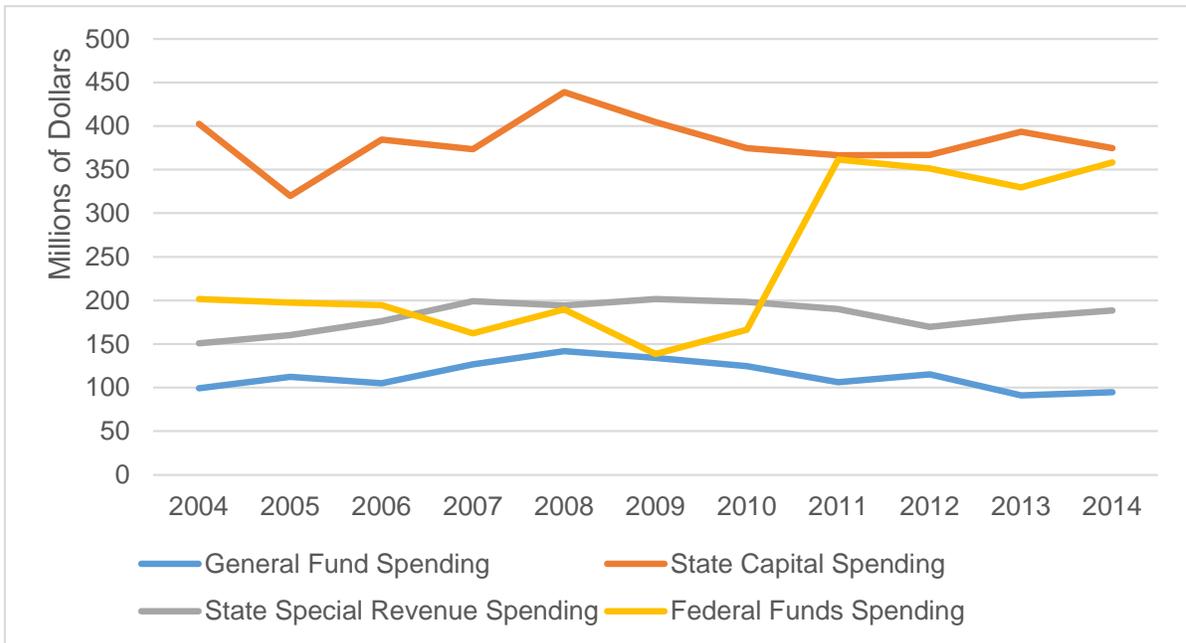
Federal funds spending on DEC programs increased by 77.9 percent, from \$201.5 million in SFY 2003-04 to \$358.4 million in SFY 2013-14. This increase primarily reflected an influx of funds from the federal American Recovery and Reinvestment Act (ARRA) appropriated in the DEC budget in SFY 2009-10. In addition, in SFY 2010-11, \$59 million in federal funding for Great Lakes restoration was appropriated in the DEC budget.

From SFY 2003-04 through SFY 2013-14, federal funds spending ranged from a high of \$361.8 million in SFY 2010-11 to a low of \$138.7 million in SFY 2008-09. After adjusting for inflation, federal funds for the DEC increased by 41.6 percent during the period. Now that ARRA funds have largely been exhausted, federal funds spending is projected to decline to \$156.4 million this fiscal year.

As shown in Figure 4, spending from the State sources of funding was relatively flat or declined over the period examined, while federal funds spending increased significantly, largely fueled by ARRA, as mentioned above.

Figure 4

DEC Spending by Fund – SFY 2003-04 through SFY 2013-14



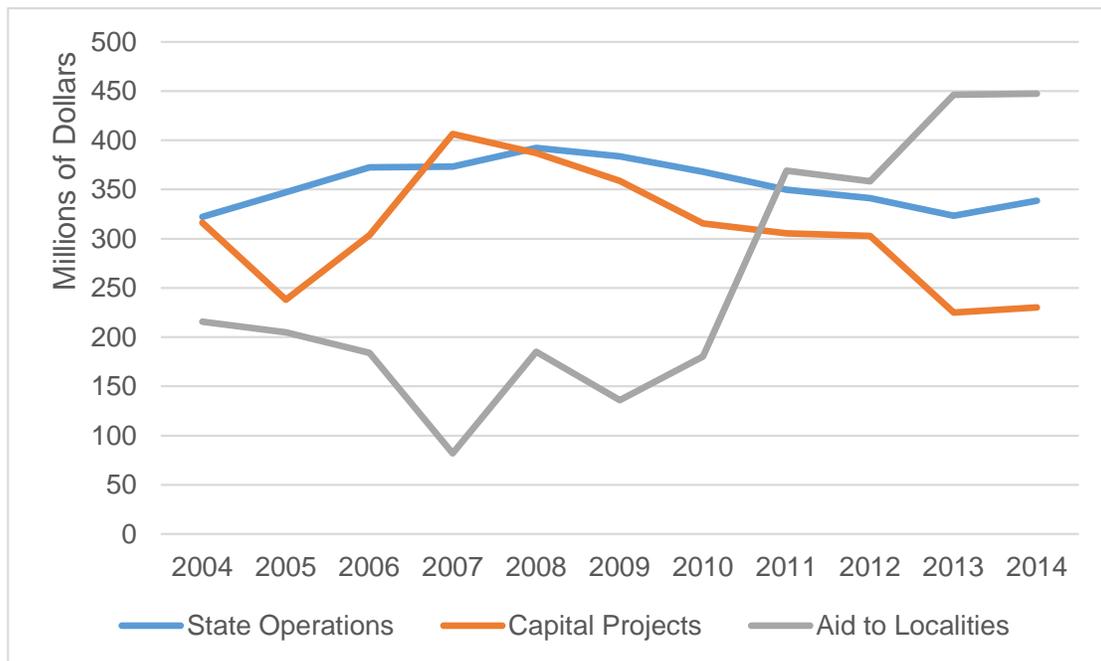
Source: New York State Division of the Budget

Spending by Functional Category

DEC spending falls into three functional categories: State Operations, which includes personnel, facilities operation and maintenance, and travel and equipment costs associated with the agency's own operations; Capital Projects, including spending on State land acquisition, and purchase of or improvements to State facilities, as well as large durable equipment purchases undertaken by the State; and Aid to Localities, which includes funding for activities to control water pollution, protect open space, and support other environmental projects undertaken by local governments, non-profit organizations and other local entities.¹² Figure 5 shows DEC spending by these three functional areas.

Figure 5

DEC All Funds Spending by Function – SFY 2003-04 through SFY 2013-14



Source: New York State Division of the Budget

DEC All Funds spending for State Operations rose modestly but steadily from SFY 2003-04 through SFY 2007-08 and then declined modestly for five years before ticking upward in SFY 2013-14, ending slightly higher than at the beginning of the

¹² Aid to Localities spending also includes certain payments from the State to local governments from Capital Projects Funds.

period examined. In constant 2004 dollars, State operations spending declined by 16.4 percent over the period examined.

DEC spending for Capital Projects varied significantly over the period reviewed, but declined from a high of \$406.3 million in SFY 2006-07 to a low of \$224.9 million in SFY 2012-13. Spending in SFY 2013-14 increased slightly to \$230.1 million. Capital spending in the two most recent years was lower than for any other years in the period covered by this report. After adjusting for inflation, DEC Capital Projects spending declined by 42.1 percent over the period examined.

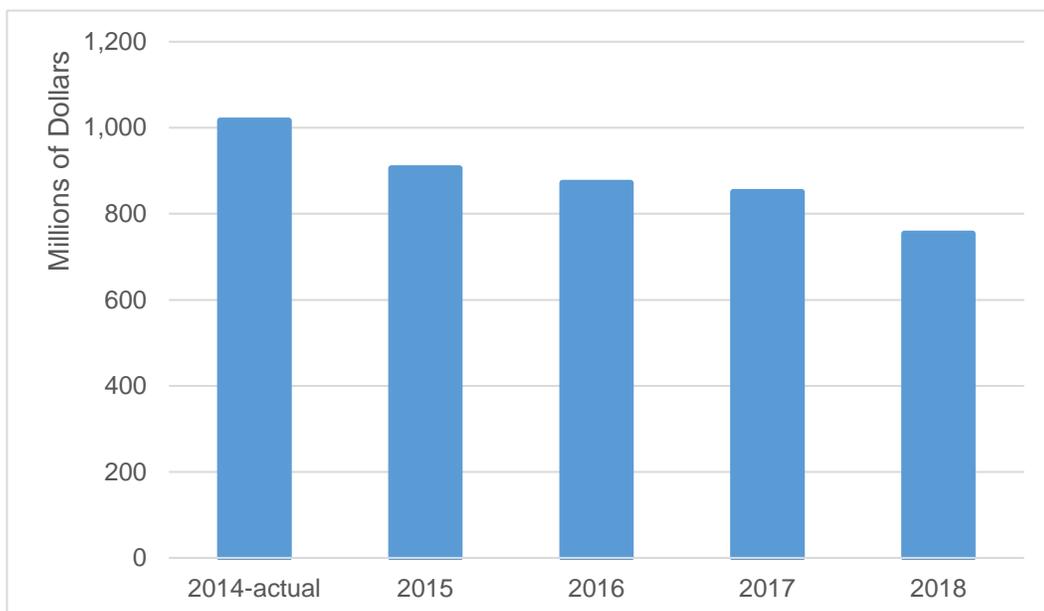
Aid to Localities spending by the DEC also varied significantly. Initially, spending declined by more than half, from \$215.6 million in SFY 2003-04 to \$81.8 million in SFY 2006-07. From that low level, spending rose substantially to its current high of \$447.5 million in SFY 2013-14. Inflation-adjusted DEC spending on Aid to Localities increased by 65.2 percent cumulatively over the period examined.

All Funds Spending Projections

According to DOB's projections included in the SFY 2014-15 Enacted Budget Financial Plan, All Funds spending at the DEC is expected to decline over the next four years. As shown in Figure 6, spending is projected to decline by 25.9 percent from the SFY 2013-14 actual figure of \$1.016 billion to \$753.6 million in SFY 2017-18.

Figure 6

DEC All Funds Spending Projections by Fiscal Year End



Source: New York State Division of the Budget

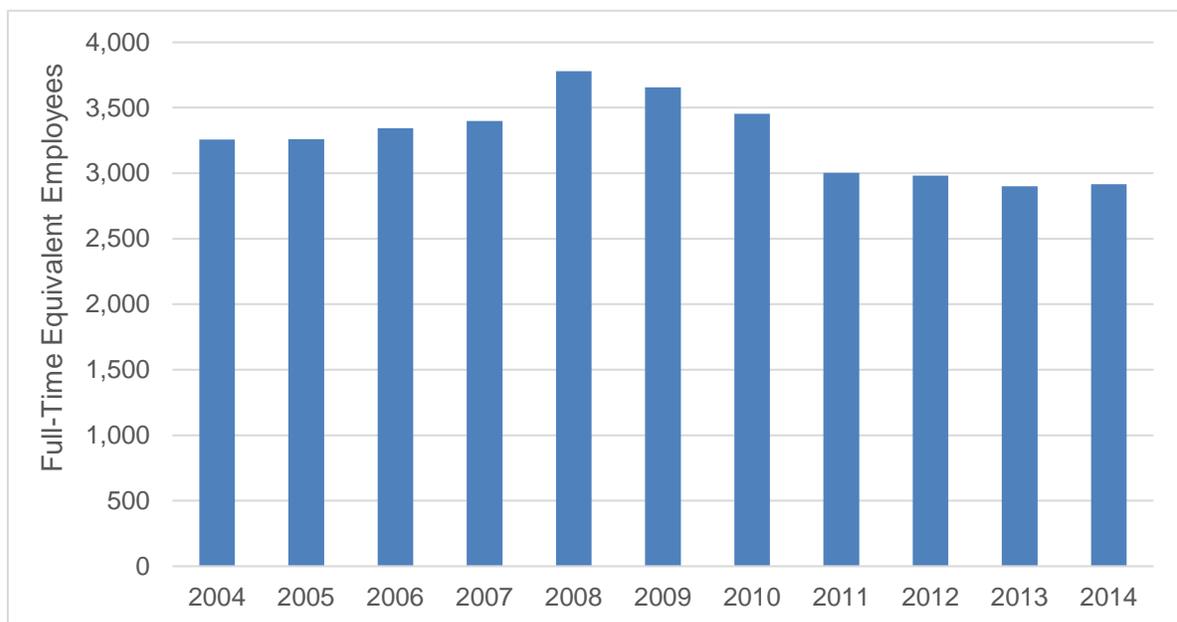
Employment

Workforce

The size of the DEC workforce, as presented in the State's Financial Plans and shown in Figure 7, declined 10.4 percent, from 3,256 Full-Time Equivalents (FTEs) in SFY 2003-04 to 2,917 FTEs in SFY 2013-14. Over this time period, DEC workforce numbers fluctuated from a high of 3,779 FTEs in SFY 2007-08 to a low of 2,901 FTEs in SFY 2012-13.

Figure 7

DEC Workforce – SFY 2003-04 through SFY 2013-14



Source: New York State Division of the Budget

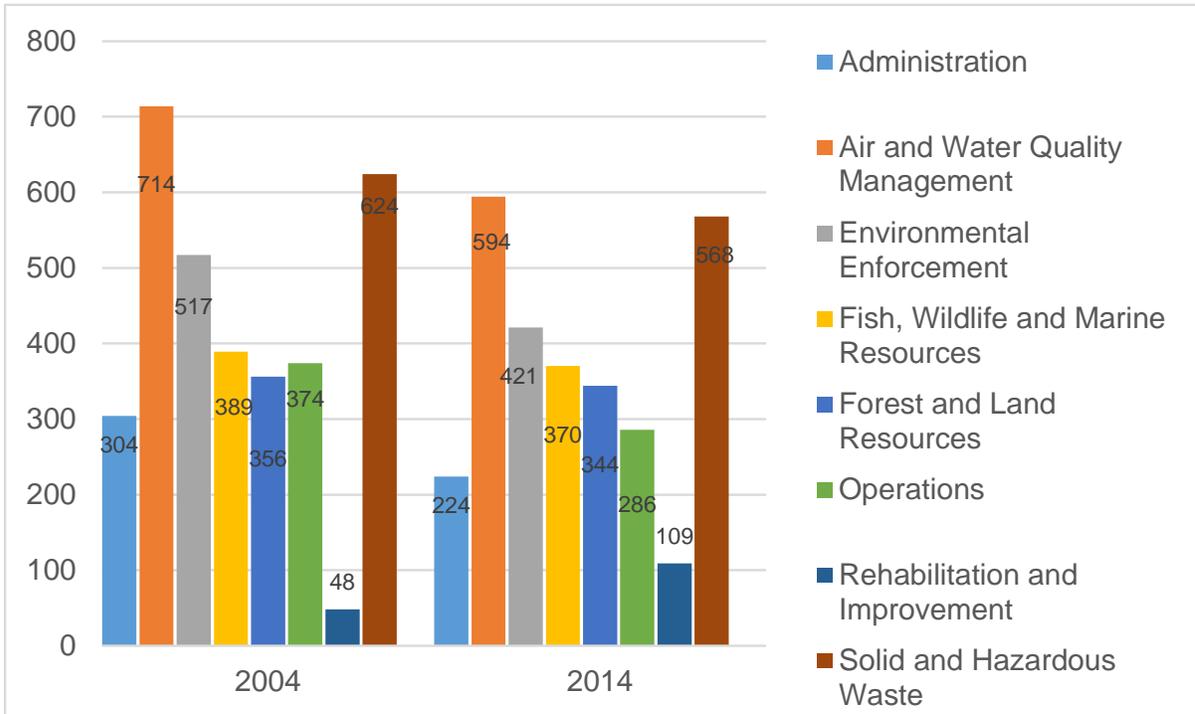
The reductions in the DEC's FTE employees did not fall equally on all DEC programs. As shown in Figure 8, based on current year FTE estimates included in Executive Budget presentations, between SFY 2003-04 and SFY 2013-14, the largest cuts fell on Administration (-26.3 percent), Operations (-23.5 percent), Environmental Enforcement (-18.6 percent), Air and Water Quality Management (-16.8 percent) and Solid and Hazardous Waste Management (-9.0 percent).¹³

¹³ DEC program level employment figures are drawn from the estimated FTEs for the current State Fiscal Year in the table titled "All Fund Types Projected Levels of Employment by Program Filled Annual Salaried Positions" in the Agency Presentations volume of the briefing materials distributed with the Executive Budget.

The Fish, Wildlife and Marine Resources (-4.9 percent) and Forest and Land Resources (-3.4 percent) programs experienced smaller cuts, while the Rehabilitation and Improvement program more than doubled in size.

Figure 8

**Full-Time Equivalents by DEC Program
SFY 2003-04 and SFY 2013-14**



Source: New York State Division of the Budget

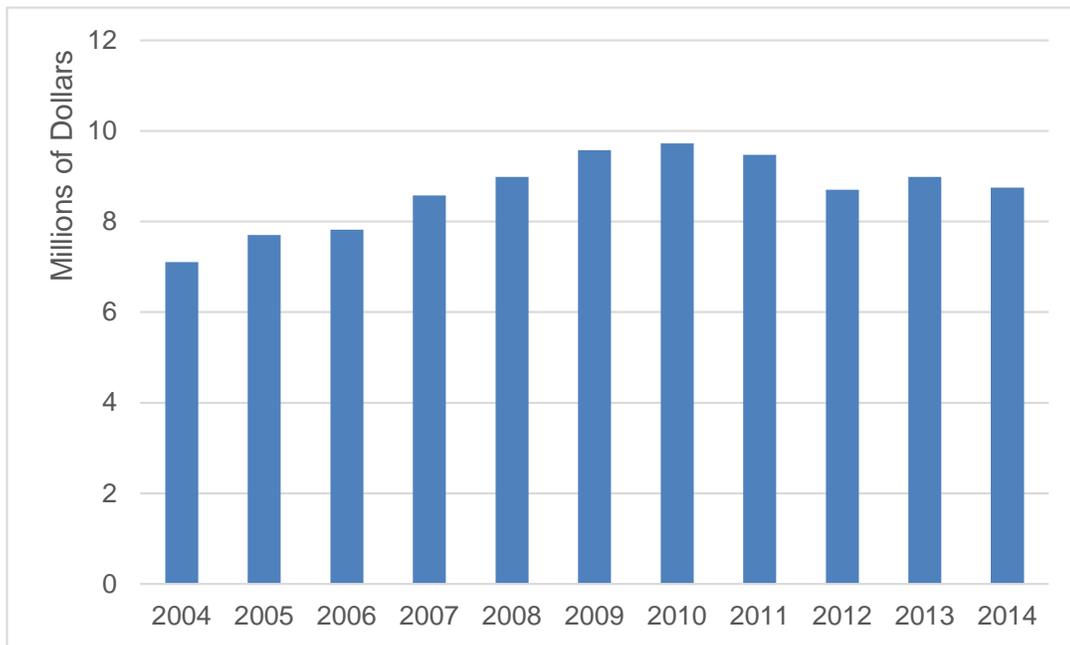
Payroll

The DEC’s average biweekly payroll has grown from \$7.1 million in SFY 2003-04 to \$8.7 million in SFY 2013-14, as shown in Figure 9. Over this period, average payrolls have ranged from a low of \$7.1 million in SFY 2003-04 to a high of \$9.7 million in SFY 2009-10. In constant dollars, SFY 2013-14 represented the lowest average biweekly payroll for the period examined in this report.

The DEC’s total gross payroll was \$197.7 million in SFY 2003-04 and \$235.4 million in SFY 2013-14. The number of pay periods can vary from year to year. Thus, comparisons over multiple years may be more meaningful than year-to-year comparisons.

Figure 9

Average Biweekly DEC Payroll – SFY 2003-04 through SFY 2013-14



Source: Office of the State Comptroller

Potential Impacts of Staff Changes on DEC Functions

Changes in employment levels in DEC programs may directly affect the agency’s ability to carry out the varied, essential elements of its mission. Two of the agency’s most critical functions involve the implementation of the federal Clean Air Act and of the Clean Water Act. A review of data that the DEC reported to the U.S. Environmental Protection Agency (EPA) for 2010 through 2014 highlights changes in program activity and performance over the period.¹⁴ In some cases, data show declines in program activity that may be related to declines in staffing, while in other cases a relationship is unclear.

Clean Air Act

Clean Air Act compliance evaluations conducted by the DEC showed decreases over the period, while declines in certain other areas were more significant. For example, the number of facilities undergoing full compliance evaluations (FCEs) declined from 450 in 2010 to 386 in 2013, before ticking up to 433 FCEs in 2014.

¹⁴ Data drawn from DEC reports to the U.S. EPA is reported on the Enforcement Compliance and History Online (ECHO) Analyze Trends: State Dashboards webpage: <http://echo.epa.gov/trends/comparative-maps-dashboards/state-air-dashboard?state=NY&view=activity>. Results are reported by federal fiscal year.

(EPA describes an FCE as “a comprehensive evaluation of the compliance status of the facility. An FCE looks for all regulated pollutants at all regulated emission units, and it addresses the compliance status of each unit as well as the facility’s continuing ability to maintain compliance at each emission unit.”¹⁵) In 2014, the DEC conducted FCEs at 12.4 percent of subject facilities, compared to a national average for state inspections of 34.5 percent of subject facilities. The number of stack tests reported by DEC also declined from 2010 to 2014.

DEC reports of facilities with alleged violations of the Clean Air Act dropped sharply between 2010 and 2014, while the number of violations reported by the EPA for facilities in New York State increased. Violations reported by DEC fell each year from 2010 to 2014, with an overall decline of more than 61 percent. The EPA reported 21 alleged violations in 2010, 26 in 2011, 29 in 2012, 27 in 2013 and 26 in 2014.¹⁶

Clean Water Act

Clean Water Act inspections conducted by the DEC declined sharply from 486 in 2010 to 219 in 2011, but then increased to 305 in 2013, followed by a sharp increase to 846 in 2014.

During this period, some indicators of compliance status remained relatively stable while others showed reductions. Non-compliant facilities declined gradually from 1,111 in 2010 to 969 in 2012, but then increased gradually to 1,071 in 2014, including an increase in the number of facilities with permit schedule violations from 543 in 2010 to 807 in 2014,¹⁷ and an increase in the number of facilities in significant non-compliance status from 288 in 2010 to 342 in 2014. The number of facilities subject to DEC’s formal or informal enforcement actions fell from 547 in 2010 to 196 in 2014.

While there are many potential explanations for these changes in program activity, staffing reductions may be a factor underlying declines in certain types of inspections and findings of environmental violations.

Major Dedicated Funds

The DEC supports several critically important environmental programs through funds that receive statutorily directed resources for specific purposes, also known as dedicated funds. Significant DEC-administered dedicated funds include the New York State Conservation Fund, the Hazardous Waste Remedial Fund and the

¹⁵ See www.epa.gov/compliance/monitoring/inspections/index.html#evaluation.

¹⁶ The EPA has limited staff and other resources to undertake compliance and enforcement activities, which are focused on a fewer number of facilities that are prioritized by the agency.

¹⁷ Permit schedule violations occur when facilities that agreed to undertake a set of activities to remedy Clean Water Act non-compliance according to a set schedule, fail to take the required actions on time.

Environmental Protection Fund. Funding patterns for these dedicated funds are highlighted below. The use of proceeds from voter-approved bond acts is also discussed in this section.

New York State Conservation Fund

The Conservation Fund, one of the State's first dedicated funds, was created in 1925 to provide a stable, long-term source of revenue to help support activities related to the State's fish, wildlife and marine resources. The Fund receives revenues from various sources, including all revenues from the sale of hunting, trapping and fishing licenses, which represents its largest source of revenue. Other sources of funding for these programs include General Fund appropriations and federal funding associated with the Dingell-Johnson and Pittman-Robertson Acts.¹⁸

In addition to programs directly associated with managing fish and wildlife species that are targeted for recreational and commercial harvest, such as running fish hatcheries and the pheasant farm and enforcing State fish and game laws, the Conservation Fund supports DEC actions to manage populations of non-game species. These activities include, for example, protection of endangered species and regulation of wetlands.

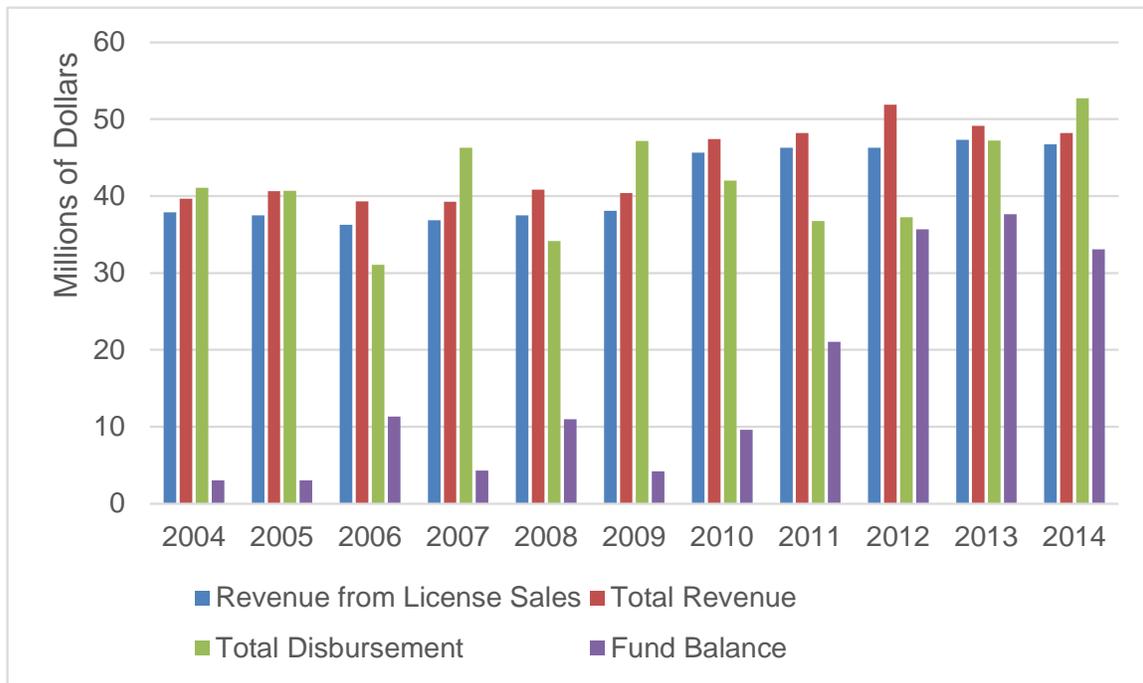
Receipts from license sales have ranged from a low of \$36.3 million in SFY 2005-06 to a high of \$47.3 million in SFY 2012-13, as shown in Figure 10. Total Conservation Fund receipts have fluctuated from a high of \$51.9 million in SFY 2011-12 to a low of \$39.3 million in SFY 2006-07.

Disbursements from the Fund have ranged from a high of \$52.7 million in SFY 2013-14 to a low of \$31.0 million in SFY 2005-06. Disbursements are projected to decline slightly to \$52.3 million in SFY 2014-15. When controlled for inflation, disbursements from the Fund increased by a total of 2.1 percent over the period examined. The cash balance in the Conservation Fund has varied from a high of \$37.6 million in SFY 2012-13 to a low of \$3.0 million in SFY 2004-05.

¹⁸ The Federal Aid in Sport Fish Restoration Act of 1950 (Dingell-Johnson) and the Federal Aid in Wildlife Restoration Act of 1937 (Pittman-Robertson) provide for the apportionment to the states of revenues derived from excise taxes on fishing gear and hunting gear, respectively, to support the implementation of certain activities contained in an approved fish and wildlife management plan. To be eligible, states must pass laws for the conservation of fish and wildlife that include a prohibition against the diversion of funds for purposes other than the administration of state fish and wildlife programs. In addition to diversion of funds, other activities that are ineligible for program support are: enforcement of fish and game laws other than federal projects specifically authorized by the regional U.S. Fish and Wildlife Service Director; public relations activities other than those specifically related to federal projects; and activities like the sale of licenses that have the sole purpose of providing revenues.

Figure 10

Receipts, Disbursements and Fund Balance of the Conservation Fund



Source: New York State Office of the State Comptroller

In SFY 2009-10, fees for hunting and fish licenses were increased by as much as 52.6 percent for certain licenses, increasing revenues derived from license fees. At the same time, disbursements from the fund declined, resulting in a climbing fund balance. The reduction in disbursements is in part due to shifting expenditures for personal services associated with 117 environmental conservation officers (ECOs) from the Conservation Fund to the General Fund in SFY 2008-09.¹⁹

As Conservation Fund balances grew, ECOs began to be shifted back onto the Conservation Fund. In SFY 2013-14, fees for hunting licenses were reduced by 24.1 percent and fees for fishing licenses were reduced by 13.8 percent. This action, combined with increased disbursement, is expected to reduce the balance in the Conservation Fund.²⁰

¹⁹ "New York State Office of the State Comptroller. Conservation Fund—Sources and Uses of Funds: Department of Environmental Conservation. State Audit Report 2012-S-134.

²⁰ Ibid.

Environmental Protection Fund

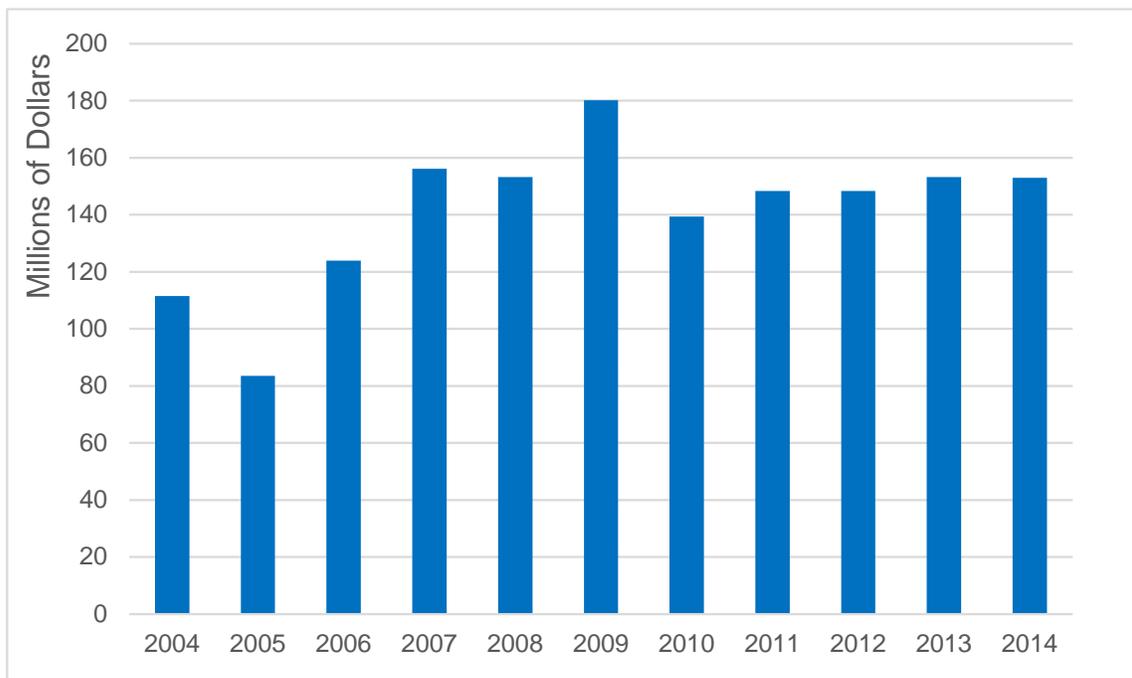
The Environmental Protection Act, Chapter 610 of the Laws of 1993, established the Environmental Protection Fund (EPF), a pay-as-you-go source of capital funding to support specified environmental programs and purposes. The Environmental Protection Act set aside sources of revenue to provide funding for the EPF, including: revenues from the Real Estate Transfer Tax; proceeds from the sale, lease or permitting of underwater State lands; a portion of unclaimed bottle deposits; revenues derived from enforcement of the Bottle Bill; and revenues from the issuance of conservation license plates for vehicles.

Programs funded by the EPF include: open space conservation; nonhazardous landfill closure projects; municipal waste reduction and recycling projects; park, recreation and historic preservation projects; local waterfront revitalization projects; storm water, waste water and aquatic habitat restoration projects; agricultural nonpoint source pollution control; and farmland preservation.

Over the life of the EPF, \$2.8 billion has been appropriated, \$2.1 billion has been disbursed, \$254.8 million is encumbered for projects and \$412.6 million in appropriation authority is available for future obligations. Disbursements from the EPF in recent years are shown in Figure 11.

Figure 11

Disbursements from the Environmental Protection Fund by Fiscal Year End



Source: New York State Office of the State Comptroller

Pay-as-you-go spending from the EPF provides significant funding for environmental programs with current State resources. However, EPF funds have also been transferred to the General Fund for budget relief. In addition, \$433.6 million in public authority bonds have been issued to offset the impact of a portion of these sweeps, creating a debt service cost for repayment of principal and interest where one had not previously been envisioned.

Since the inception of the EPF, a total of \$507.2 million has been swept from the EPF to the General Fund for budget relief without being replaced by bonded funds.²¹ In total, including funds swept to the General Fund and replaced with bond proceeds, \$928.7 million in cash has been transferred out of the EPF.

Hazardous Waste Remedial Fund

The Hazardous Waste Remedial Fund was established by Chapter 857 of the Laws of 1982 to provide a source of funding to support State cleanups of hazardous waste sites conducted under the State Superfund program. Superfund spending for the period examined is shown in Figure 12. Revenues from penalties for illegal disposal of hazardous wastes and fees charged on the generation of hazardous wastes provided an initial source of financing.

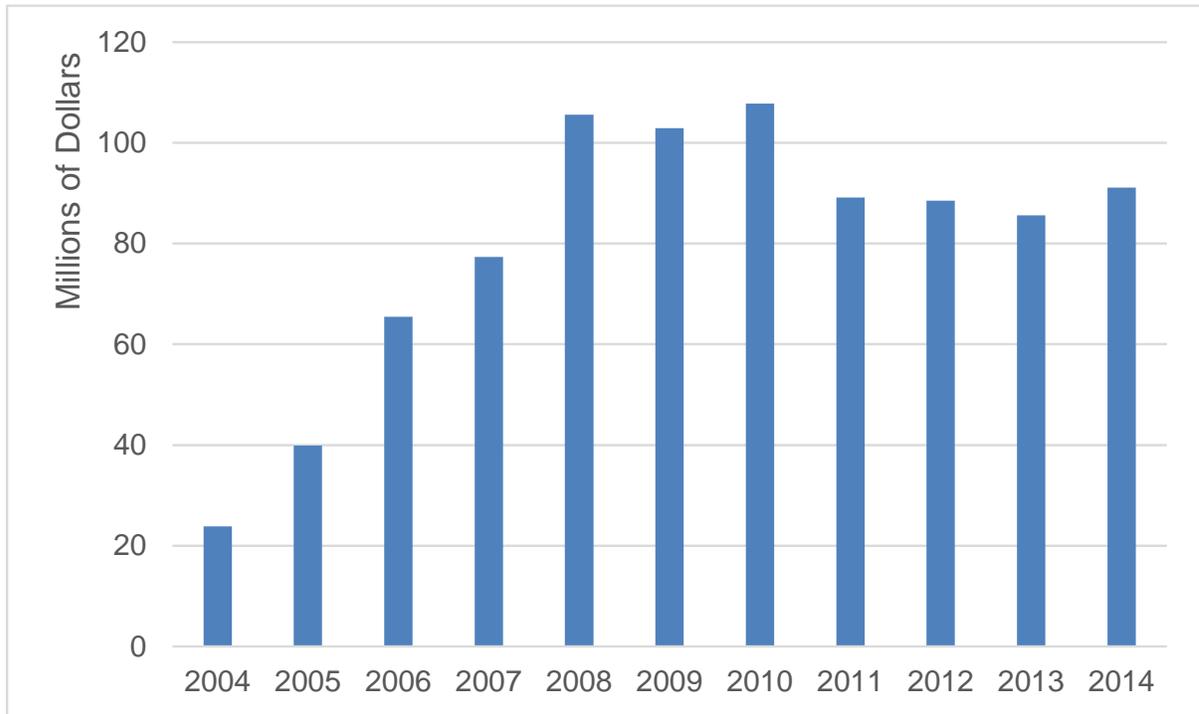
The Environmental Quality Bond Act of 1986 allocated \$1.2 billion in revenues from authorized bonds to the Fund. By 2000, a lack of funding had led to a reduction in the activities of the Superfund Program. Chapter 1 of the Laws of 2003, which enacted the State's Brownfield Cleanup Program, provided a new source of financing for the Hazardous Waste Remedial Fund by authorizing the Environmental Facilities Corporation (EFC) to issue up to \$120 million in bonds annually up to a cap of \$1.2 billion. The current statute prohibits the EFC from issuing bonds for new appropriations enacted after March 31, 2013.

Bonds may be issued to finance expenditures based on appropriations made for hazardous waste remediation in prior years until the cap is reached. Since the beginning of the program, while the authorized \$1.2 billion has been appropriated, only \$877.1 million has been disbursed in support of cleanup of Superfund sites; \$515 million in authorized bonds have yet to be issued.

²¹ DOB is authorized to repay up to \$447.2 million of these funds if needed to meet the obligations of EPF programs.

Figure 12

Annual State Superfund Disbursements



Source: New York State Office of the State Comptroller

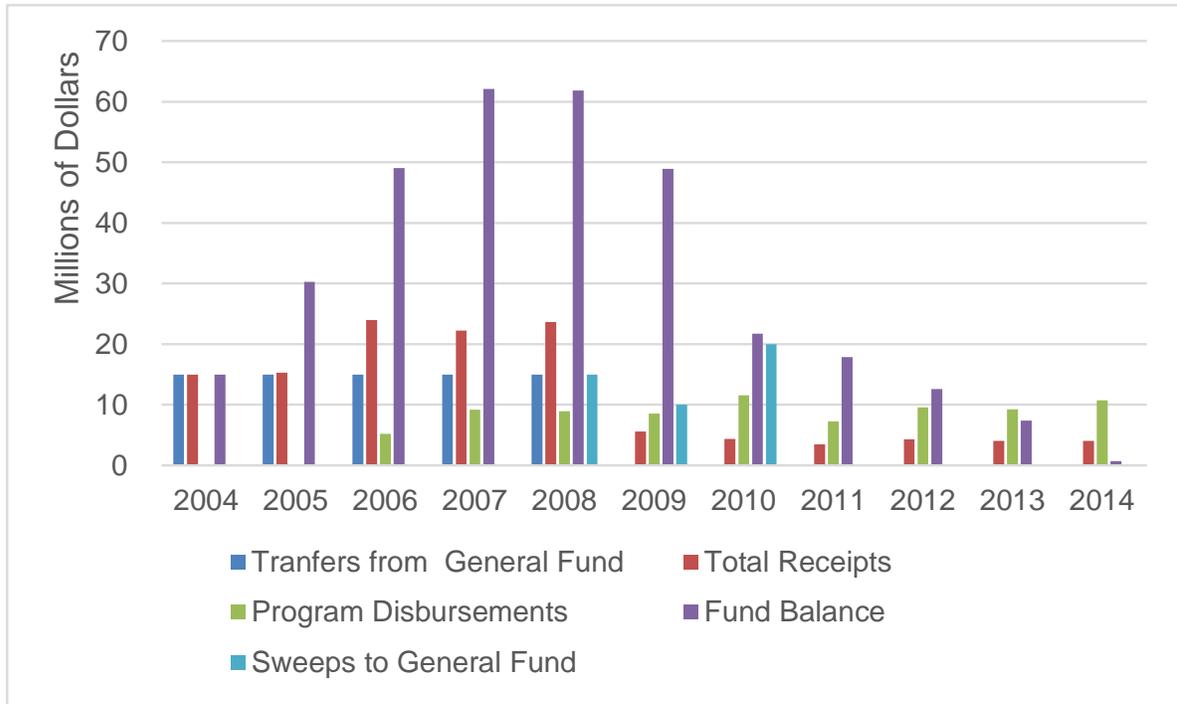
Hazardous Waste Oversight and Assistance Account

Chapter 1 of the Laws of 2003 also established the Hazardous Waste Remediation Oversight and Assistance Account (Oversight and Assistance Account) to pay for program costs associated with DEC oversight of the Brownfield Cleanup Program, grants authorized by the Brownfield Opportunity Area program (BOA), and technical assistance grants associated with the Brownfield Cleanup Program and the State Superfund Program.

Authorized collection of DEC costs associated with the negotiation and oversight of site cleanup agreements are deposited in the Oversight and Assistance Account. In addition to these deposits, there were annual \$15 million transfers in SFY 2003-04 through SFY 2007-08 totaling \$75 million, from the General Fund to this account for the agency to implement the program. However, not all of these funds were expended, and in SFY 2007-08, SFY 2008-09 and SFY 2009-10 there were sweeps of \$15 million, \$10 million and \$20 million, respectively, from the Oversight and Assistance Account for General Fund relief, raising questions as to the programmatic impacts of such transfers.

Figure 13

Oversight and Assistance Account Receipts, Disbursements and Fund Balances



Source: New York State Office of the State Comptroller

As shown in Figure 13, disbursements for program-related costs did not begin until SFY 2005-06 and have ranged from a high of \$11.6 million in SFY 2009-10 to a low of \$5.2 million in SFY 2005-06. Annual receipts deposited in the Oversight and Assistance Account have ranged from a high of \$23.9 million in SFY 2005-06 to a low of \$3.5 million in SFY 2010-11.

Oversight and Assistance Account fund balances have ranged from a high of \$62.1 million in SFY 2006-07 to a low of \$706,474 in SFY 2013-14. In SFY 2013-14, Oversight and Assistance Account receipts were \$4.0 million and disbursements were \$10.7 million. In recent State Fiscal Years, disbursements from the Fund have exceeded receipts and the fund balance has been spent down. The imbalance between receipts and disbursements may require new sources of revenue to provide financing for the BOA program and other programs supported by this fund.

Voter-Approved Environmental Quality Bond Acts

Since 1960, New York State voters have approved seven bond acts, authorizing the issuance of nearly \$5.7 billion in bonds, to finance a variety of environmental

projects. As shown in Figure 14, approximately \$267.8 million in bonding authority remains from these bond acts. Authorized projects have included park facilities, abatement of air and water pollution, solid waste management, remediation of contaminated sites and acquisition of recreationally or ecologically important lands.

Figure 14

**General Obligation Bonds Authorized and Issued Under
Environmental Quality Bond Acts Since 1960**
(in thousands)

Bond Act	Bonds Authorized	Bonds Issued	Authorized but Unissued	Bonds Outstanding
Clean Water/Clean Air Bond Act of 1996	\$1,750,000	\$1,578,737	\$171,263	\$574,897
Air Quality	230,000	200,292	29,708	15,024
Safe Drinking Water	355,000	355,000	0	8
Clean Water	790,000	698,519	91,481	430,949
Solid Waste	175,000	171,809	3,191	47,536
Environmental Restoration	200,000	153,117	46,883	81,380
Environmental Quality Bond Act of 1986	1,450,000	1,398,736	51,264	282,086
Land and Forests	250,000	247,726	2,274	20,375
Solid Waste Management	1,200,000	1,151,010	48,990	261,711
Environmental Quality Bond Act of 1972	1,150,000	1,125,675	24,325	54,530
Air	150,000	137,647	12,353	3,021
Land and Wetlands	350,000	340,360	9,640	8,925
Water	650,000	647,668	2,332	42,584
Outdoor Recreation Bond Act of 1966	200,000	199,770	230	0
Pure Waters Bond Act of 1965	1,000,000	980,076	19,924	41,390
Parks and Recreation Land Acquisition Bond Acts of 1960 and 1962	100,000	99,228	772	12
Total	\$5,650,000	\$5,382,222	\$267,778	\$952,915

Source: New York State Office of the State Comptroller

Note: Figure 16 reflects General Obligation environmental bond acts where there is a remaining Authorized but unissued amount and/or remaining Bonds Outstanding. All amounts are current as of September 30, 2014.

While the Executive, the Legislature and the voters approved bond acts for environmental purposes in each decade from the 1960s through the 1990s, no such proposals have been approved since 1996. In recent years, the State has relied on a combination of pay-as-you-go financing and State-supported bonds issued by its public authorities, commonly referred to as “backdoor borrowing,” to fund most of its capital investments for environmental and other purposes.

New York has a limited process in place to estimate and prioritize the level of capital investment needed for State and local government infrastructure. The State’s New York Works initiative, begun in 2012, has improved on previous capital planning efforts. Still, establishment of a comprehensive process to identify and prioritize

capital needs could provide a clearer picture of whether current levels of investment in clean water, cleanup of polluted sites and other environmental purposes are adequate.²²

²² For more information, see the Office of the State Comptroller's reports on *Planning and Financing New York State's Capital Investments*, March 2014 and *Growing Cracks in the Foundation*, September 2014.

Conclusion

Over the period examined in this report, the DEC's responsibilities have grown, while its staffing has been cut more than 10 percent. Staffing levels in areas such as Administration, Operations, Enforcement, Air and Water Quality Management and Solid and Hazardous Waste Management have experienced deeper cuts. Overall funding has been nearly flat on an inflation-adjusted basis, and will decline in coming years, according to DOB projections. Since SFY 2007-08, funding from State sources is down 15.1 percent. Increased federal funding has helped fill the gap, but those resources are now declining as well.

Two of the State's major funds dedicated to the environment – the Environmental Protection Fund and the Hazardous Waste Oversight and Assistance Account – have, in the past, been subjected to sweeps in excess of half a billion dollars to provide general State budget relief, impacting available funding. Information from the EPA on DEC activity and performance in implementing the Clean Air and the Clean Water Acts raise questions about declines in some activities.

New Yorkers have a vital interest in the protection and management of our environment. Intensifying fiscal pressures and an expanding mission place a premium on effective and efficient use of DEC's resources. In this context, this report suggests consideration by policy makers and the public of whether the DEC has the resources necessary to carry out its critically important functions.