OVER 60 ORGANIZATIONS RELEASE LETTER CALLING FOR PLASTIC BAG REGULATIONS TO FOLLOW INTENT OF LAW

(Albany, N.Y.) Advocates released a letter with over 60 organizational backers to highlight concerns with the Department of Environmental Conservation’s (DEC) proposed regulations in relation to New York State’s plastic bag ban. Chief amongst the concerns outlined is a provision that would allow thicker plastic bags in New York. Advocates went over deficiencies in the regulations and called on DEC to fully enforce on the March 1st enactment date regardless of the status of the regulations.

Advocates voiced their strong support for New York’s plastic bag ban law. New Yorkers use an estimated 23 billion plastic bags every year. A significant number of these bags make their way into the environment causing litter and damaging wildlife, which can be seen within waterways, along streets and in oceans and lakes. Moreover, these bags do not biodegrade – they persist for years. The New York City Department of Sanitation currently estimates that it collects an average of 1,700 tons of plastic bags per week, costing $12.5 million per year in disposal expenses.

The comment period on the proposed regulations is set to close on Monday, February 3rd and the law will take effect on March 1st. Consumers should be prepared to use reusable bags in time for March 1st.

Judith Enck, former EPA Administrator and founder of Beyond Plastics, said, “New Yorkers use a staggering 23 billion plastic bags every year. Plastic pollution is a major problem and state legislators and Governor Cuomo did the right thing by banning plastic bags in April 2019. However, the NY Department of Environmental Conservation has proposed draft regulations that would allow thick plastic bags to be handed out to consumers. This would be a monumental mistake which the DEC thankfully has time to change before the law takes effect on March 1st.”

Liz Moran, Environmental Policy Director for NYPIRG, said, “New York made the right move to fight climate change and protect the environment by banning plastic bags. But now the impact of that action is threatened by regulatory language to allow for thicker plastic bags. Plastic bags are plastic bags – to maintain New York’s status as a climate champion, DEC must ensure regulations follow the intent of the law and won’t allow the distribution of plastic bags, regardless of thickness, starting March 1st.”

Kate Kurera, Deputy Director for Environmental Advocates of New York, said, "New York is making a strong statement about valuing our environment, fighting climate change, and protecting public health by banning plastic bags. Unfortunately, DEC has proposed regulations that undermine the intent of the law, which is to ban plastic carryout bags, by opening the door to
plastic bags of a certain thickness. There are deficiencies in these proposed regulations that need to be addressed; however, there is nothing that should delay the plastic bag ban from coming into effect on March 1. We look forward to March 1st when plastic bags are banned in New York and working with the DEC to ensure any regulations are effective as possible.”

Charlie Olver, Policy Associate for NYPIRG and student at SUNY New Paltz, said, “Every minute, the ocean receives a garbage truck worth of plastic - up to 8 million metric tons a year. 100 billion are consumed in the United States, and 23 billion in NYS alone. With alternatives already circulating in the market, and the environmental, public health, and economic risks plastic bags pose, using them has become an unnecessary risk. Banning all plastic bags is crucial to reduce this stream of waste, because thicker bags will only be used in the same way.”

-30-
January 31, 2020

Commissioner Basil Seggos  
Attn: Kayla Montanye  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-0001

Re: New York State Department of Environmental Conservation’s proposed 6 NYCRR Part 351 Plastic Bag Reduction, Reuse, and Recycling that sets forth the requirements of Titles 27 and 28 of Article 27 of the Environmental Conservation Law

Dear Commissioner Seggos:

We, the undersigned organizations, write to express our concerns about certain provisions within the draft regulations to implement New York State’s forthcoming plastic bag ban. We strongly support New York’s ban on plastic carryout bags and wish to ensure that the intent of the law is upheld.

The goal of the law is to ban all plastic carryout bags. However, the Department of Environmental Conservation’s (DEC) proposed regulations allow for certain types of plastic carryout bags to be used, as well as provide thickness criteria, both of which were not included in the state law. We see three serious issues with the draft regulations that we urge the DEC to change.

First, the law bans plastic bags (except for the stated exceptions in the law such as dry cleaners and newspapers); however, the proposed regulations would allow stores to continue to give out plastic bags for free if the plastic bags are 10 mils or thicker. (Sec. 351-1.2(n)(5)(i)). The law bans plastic carryout bags and does not allow thicker plastic bags; therefore, the regulations should not do so either.

If not clarified, this would present a serious policy shift. This change would allow stores to distribute for free and/or sell thicker plastic bags that are nearly identical to the single-use plastic carryout-style bags that consumers are already familiar with and accustomed to disposing of after one use. Most consumers will not use these thicker plastic bags as reusable bags - the thicker bags will simply end up in all the same problematic places as their thinner counterparts.

The DEC has asserted that 10 mil plastic bags are not currently used at supermarkets. That may be true today but not necessarily in the future. The DEC should not incentivize plastic bag manufacturers to create thicker plastic bags of 10 mils or more. We suggest that DEC amend the proposed regulations regarding reusable bags to eliminate the 10 mils requirement and instead ban all plastic carryout bags, as required by existing law.
Second, the section of the proposed regulations (Sec. 351-1.2(f)(12)) that enables the DEC to exempt stores from complying with the law on a case-by-case basis should be removed. The law does not provide the DEC the authority to allow for such a discretionary power to determine when there is no “reasonable or practical alternative” for a film plastic bag. Moreover, the inclusion of providing for a new category of exempt ‘film plastic bag’ is inconsistent with the law.

Third, (Sec. 351-1.2(f)(9)) of the regulations exempts food service establishments defined by the New York Sanitary code that provide carry out or delivered food. We urge the DEC to clarify this to ensure that small stores and gas stations that serve food will not be exempt from the plastic bag ban.

The New York State Legislature enacted legislation to ban single-use plastic bags due to a wide range of environmental, health, litter and financial concerns which the DEC, itself, has documented. Residents of New York State use approximately 23 billion single-use plastic bags every year. These bags are used for an average of 12 minutes before being discarded to be buried in a landfill, burned in an incinerator (which pollutes our air and harms public health) or littered on land or in water, where they will break into smaller and smaller pieces over hundreds of years.

Plastic bags can also be deadly for wildlife, particularly marine wildlife. Single-use plastic bags resemble jellyfish and are a commonly found synthetic item in sea turtles’ stomachs. As the bags break into smaller pieces, they are eaten by many species of marine wildlife, sickening them and entering our food chain. Nine million tons of plastic enter our oceans each year. If we do not take comprehensive action to reduce the use of plastic packaging such as single-use bags, the amount of plastic waste entering the oceans will double between 2015 and 2025.

We urge you to revise the proposed regulations to remove and/or clarify the damaging provisions cited above and ensure that the law fulfills its stated intention of reducing single-use plastic pollution in our state.

Thank you for giving serious consideration to how New York State can best address the burgeoning plastic pollution and climate change crises, and thank you for your consideration of our comments.

Sincerely,

Judith Enck, Founder, Beyond Plastics

Elizabeth Moran, Environmental Policy Director, NYPIRG

Kate Kurera, Deputy Director, Environmental Advocates of New York
350Brooklyn
Sara Gronim
Co-leader

Adirondack Mountain Club
Michael Barrett
Executive Director

Aytzim: Ecological Judaism
David Krantz
President

Barbets Duet
Barbara Heinzen

Big Reuse
Justin Green
Executive Director

Big Reuse
Francesca DiGiorgio
Outreach Associate

Buffalo Niagara Waterkeeper
Chris Murawski
Director of Community Engagement

Cafeteria Culture
Debby Lee Cohen
Executive Director and Founder

Catskill Mountainkeeper
Katherine Nadeau
Deputy Director

Compressor Free Franklin
Donald Hebbard
President / Founding Member

Earthjustice
Victoria Bogdan Tejeda
Attorney

Fluoride Action Network
Ellen Connett
Managing Director

Food & Water Action
Eric Weltman
Senior Organizer

FoodScraps360
Diana Wright
Owner

GAIA
Denise Patel
US Program Director

Gas Free Seneca
Joseph Campbell
President

Grassroots Environmental Education
Patricia Wood
Executive Director

Green Park Gardeners NYC
Susan Blackwell

Green Policy Task Force
Jessica Munzel
Member

Hudson River Sloop Clearwater, Inc.
Manna Jo Greene
Environmental Director

Hunt Green LLC
Suzanne Hunt
President

Jampac (Jamesville Positive Action Committee)
Vicki Baker
Chair

Larchmont Environmental Committee
Lisa McDonald
Co-Chair, Larchmont Environmental Committee
Larchmont Mamaroneck Lions Club
J Philip Oldham
President

League of Women Voters of New York State
Laura Ladd Bierman
Executive Director

Lonely Whale
Emy Kane
Co-Deputy Director

M/T Net Co
John Mylod
CEO

Member of UUSC Social Action Team
Dorothy Hudson

New Paltz Climate Action Coalition
Jess Mullen
Chairperson

New York Interfaith Power & Light
Glenn Jacob
Executive Director

News from the Neighborhood
Paul Tick
Editor

NY Water Environment Association
Patricia Cerro-Reehil
Executive Director

NYC Friends of Clearwater
Edith Kantrowitz
Vice President

NYC H2O
Matt Malina
Director and Founder

Oceana
Brian Langloss
New York Campaign Organizer

Otsego 2000
Ellen Pope
Executive Director

Parks & Trails New York
Robin Dropkin
Executive Director

PAUSE - People of Albany United for Safe Energy
Diana Wright
Facilitator

Plastic Free Waters Partnership
Sarah Edwards
Executive Director

Protect the Adirondacks!
Peter Bauer
Executive Director

Purslane LLC
Arianna Rizzo
Sales Manager

Seneca Lake Guardian, a Waterkeeper Alliance Affiliate
Yvonne Taylor
Vice President

Social Action Team of Unitarian Universalist Society of Oneonta, NY
Alice Siegfried

Stop the Algonquin Pipeline Expansion
Susan Van Dolsen
Cofounder

Story of Stuff Project
Michael O’Heaney
Executive Director
The Green Park Gardeners NYC
Marise Hausner
Compost Manager
Tompkins County Environmental Management Council
Thomas Shelley
Chair

Troy Zero Waste
Drea Leanza
Organizer

United for Action
Edith Kantrowitz
Board Member

Upper Green Side
Sarah Gallagher
President

UPSTREAM
Matt Prindiville
CEO

Village of Mamaroneck
Ellen Silver
Chairperson

Weather Medic Inc.
Jack Kanack
President

WESPAC
Nada Khader
Executive Director