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**Before the Senate Standing Committees on Health and Environmental Conservation and
the Assembly Standing Committees on Health and Environmental Conservation**

On Water Quality and Contamination

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Albany, NY**



Good morning, Chairpersons Hannon, O'Mara, Gottfried and Englebright and members of the Committees. I am pleased to be here to discuss not only water contaminants and regulations, but more importantly, what steps we are currently taking and will continue to take in the future to ensure the quality of New York's drinking water. I'm joined by Brad Hutton, Deputy Commissioner of the Office of Public Health, who has been with the Department of Health for more than two decades and Dr. Lloyd Wilson, a 34-year veteran of water issues at the Department of Health. Also present with us today are Dr. Nathan Graber, Dr. Elizabeth Lewis-Michl and Dr. Roger Sokol from the Department's Center for Environmental Health.

I'm proud to be joined by these dedicated public servants who have made a career of working to protect public health in the State of New York.

Access to clean drinking water is a defining issue of our time. The rapid rise of manufacturing built the economic success of our state and our nation, employing citizens, enabling us to provide for our families and making our country a powerhouse -- but it also left a trail of significant environmental pollution, the consequences of which we are only just beginning to understand.

These stories of water contamination are becoming too familiar in New York communities. We know the names of the towns and the companies -- Hoosick Falls and Saint Gobain, Bethpage and Northrup Grumman, Petersburg and Taconic Plastics, Westhampton and Gabreski Air National Guard Base, Newburgh and Stewart National Air Guard Base, and we hear stories from Colorado, Alabama, Pennsylvania, and elsewhere. Recent reports indicate at least 42 states have one or more of 141 unregulated contaminants in their drinking water -- and that number is growing.

While we're facing these significant challenges, the Governor's Water Quality Rapid Response Team is taking aggressive action to stay ahead of the problem. In addition, we are working with all of you in the Legislature to make record investments in water infrastructure, including:

- \$400 million for water infrastructure improvements across the state,
- a historic \$300 million commitment to the state Environmental Protection Fund,
- a \$1 billion state Superfund Program, and
- \$5 billion in financing available through the State's Drinking Water State Revolving fund.

Together, this amounts to the largest annual investment in water infrastructure of any state in the nation

In New York, as is the case everywhere, drinking water comes from natural sources, and each source can contain naturally occurring minerals, organic materials, chemicals and contaminants, as well those added by industrial pollution. In fact, all drinking water -- even bottled water -- may have small amounts of contaminants.

Today, I want to highlight the current regulatory construct but also raise two important issues as the State continues its aggressive actions to make sure our residents have access to clean drinking water. Right now 6.5 million New Yorkers drink from water systems that do not require

the testing of emerging contaminants, such as PFOA, or drink from water supplies that are not regulated at all. That is one-third of all New Yorkers. I will describe this in greater detail below.

The Environmental Protection Agency (EPA) is the chief regulator of the nation's approximately 155,000 public water systems under the Safe Drinking Water Act.

As part of the regulatory construct, the Department of Health works closely with local health departments, local water operators, the Department of Environmental Conservation (DEC), and our other partners to oversee the more than 9,000 public water systems in the state. We follow federal and state regulations within a well-established framework, and we rely on the best available science and decades of experience to guide our determinations and our actions.

Currently, public water systems must test for regulated contaminants—e.g. benzene, arsenic, and cadmium. Federal and State standards provide clear rules and regulations that must be followed if public drinking water systems exceed the *allowable* amount of a regulated contaminant. Exceedances are not uncommon. On average, my Department handles more than 200 cases annually in which water systems exceed the allowable level of a regulated contaminant. In these situations, we follow EPA established courses of action: confirm the contaminant, notify the public, identify the source, and reduce exposure in the water supply.

Then there are unregulated contaminants, such as PFOA, PFOS and the like, of which there are more than 80,000. In this case, the EPA requires that public water systems test for unregulated contaminants under a program called the Unregulated Contaminant Monitoring Rule or UCMR. Established in 1999, the purpose of the UCMR is to determine the presence of 90 unregulated contaminants, like PFOA, in drinking water systems across the country to help inform EPA's establishment of regulatory levels.

However, the UCMR program doesn't apply to water systems with less than 10,000 people – which means that 2,700 smaller community water systems and other non-public water systems, like schools, are not required to test for these unregulated contaminants. Put another way, the current EPA UCMR program does not require the testing of water systems that serve 2.5 million New Yorkers. This creates situations like Hoosick Falls, where for potentially decades, residents were drinking water contaminated with PFOA, but the Village had no obligation to even test for it.

Had it not been for a concerned Village resident, PFOA in the drinking water of Hoosick Falls may never have been discovered. But if the Village had been required to test under the UCMR program, they would have identified it years earlier. That's why today, with Commissioner Seggos, I sent a letter to the EPA urging them to adopt new guidance that would require all public water systems – no matter the size – to test their water for unregulated contaminants under an expanded UCMR program. We are also calling on them to provide sampling results to states in a timely and transparent manner, and offer actionable guidance to address the detection of unregulated contaminants.

If the EPA declines to take action, then we will introduce legislation to require the testing of all public water systems in the state and we'll grant a hardship exemption to municipalities that

can't afford to do the testing on their own and the state will perform the testing. This action is critical to making sure that no community in New York ever has to endure what Hoosick Falls has been enduring because of this undetected corporate pollution. We urge you to join us in supporting this legislation.

The EPA has issued health advisories for just 104 of the more than 80,000 unregulated chemical contaminants. In the absence of legally enforceable regulatory levels, these health advisories provide information and guidance to state and local entities on contaminants that may appear in drinking water. According to the EPA, their health advisories are intentionally set *below* levels that are expected to result in health effects. This is a buffer, known scientifically as the margin of protection because the level at which health effects may occur is *much higher* than the level at which the health advisory is set.

According to the EPA's 2016 fact sheet, "*EPA's health advisory levels were calculated to offer a margin of protection against adverse health effects to the most sensitive populations: fetuses during pregnancy and breastfed infants. The health advisory levels are calculated based on the drinking water intake of lactating women, who drink more water than other people and can pass these chemicals along to nursing infants through breastmilk.*" In other words, the health advisory level is the point at which drinking water systems should begin taking steps to reduce the amount of the contaminant in the water supply.

Beyond the regulated contaminants and unregulated contaminants in public drinking water supplies, private wells are another major issue. As you have heard last week and today, private wells are not covered by any federal or state regulations. Yet time and again, in the process of our investigations, the Department has uncovered contaminated private wells. The quality of drinking wells greatly vary. Therefore, where possible, the Department, working closely with the Environmental Facilities Corporation, provides funding and technical assistance to move communities off of private wells by connecting them to public water supplies. This is currently the case in Suffolk County, where we are working to connect private drinking water wells in Westhampton that may be affected by PFOS to the public water supply.

We certainly recognize that it is not feasible to move everyone away from private drinking water wells – nor should it be -- so we will also be introducing legislation to increase oversight of the state's 1.1 million private wells. Right now, upon the sale of a home with a private well, there is no requirement to test the well's water quality or even notify the buyer about whether the well has been tested. Our legislation will require that homeowners selling their residences test their private wells for contaminants and notify the buyers of the results prior to closing the sale. To protect renters, landlords will also be required to test private wells and notify tenants and the County of those results.

This is common sense legislation. We are talking about a few hundred bucks in testing costs with a huge potential upside every time we proactively identify a contamination and other local communities have had similar laws in place for years. I strongly urge all of you to join us in supporting this legislation – I know that many of you have been supportive of similar bills in the past and I hope that you will continue to provide that support again today.

Beyond our actions today, Governor Cuomo yesterday signed landmark legislation mandating that schools in New York State test drinking water for lead contamination. Lead pipes and fixtures were used across the nation until Congress banned them in 1986, and lead contamination is an increasingly prevalent issue, especially for our children. This is a different problem. It is not a question of removing a containment from the water supply. If we knew then, what we know now, we would have built with different materials. Unfortunately, there are hundreds of thousands of pipes within buildings and schools across New York State, which cannot cheaply or easily be replaced.

That's why maintenance, flushing, and testing is so important. There are actions that can be taken to ensure that children aren't exposed to lead – even in cases where lead pipes may have been used in the construction of their schools. But when those actions fail and our kids are being exposed to lead, it's a no-brainer that we would want to know about that and be able to address it in short order.

Until now, schools in New York were not required to test their drinking water for lead or notify parents or government officials of results. Testing was voluntary and administered by the federal EPA. This method of voluntary testing has demonstrated the clear need for New York State to provide its schools with direction on when, what and how to sample drinking water for lead. And that's exactly what we're doing with this landmark legislation.

It is time to bring the quality of our water out of the shadows once and for all, and that's why today we're taking these actions:

- 1) calling on the EPA to implement the UCMR program for all water systems regardless of size;
- 2) introducing legislation to improve the oversight of private wells; and
- 3) moving forward on mandatory lead testing for school districts in the State of New York.

But there's more we're doing. The Water Quality Rapid Response Team continues to stay ahead of water issues across the state. In February 2016, Governor Cuomo established the Rapid Response team in order to quickly identify and address critical drinking water contamination concerns in our communities. I co-chair this effort with Commissioner Seggos, and over the past several months our teams have been working together to:

- 1) develop an Action Plan that will include recommendations to enhance the State's existing drinking water, groundwater, and surface water protection programs; and
- 2) rapidly respond to site-specific issues in communities across New York

For instance, in Newburgh, PFOS was identified in the water supply years ago. In just the first few months, the team identified and swiftly responded to PFOS contamination in the City of Newburgh's public water supply. The contaminant had been reported to the EPA through the UCMR, but again under that program states are not notified of issues, and the EPA does not respond to elevated contaminant levels. Rather, the situation in Newburgh was identified through our own efforts to access and analyze the 2015 UCMR data provided to the EPA. Although all

samples were below the EPA's provisional health advisory in place at that time, the state immediately engaged Newburgh officials to help address the problem. This included changing the source of Newburgh's water supply.

The Rapid Response Team also identified several communities in Suffolk County with levels of potential concern. In Westhampton, the UCMR data showed PFOS in public water supply wells near the Gabreski Air National Guard Base. The Department provided technical assistance on private wells to Suffolk County while corrective actions were taken by local water operators to address the public water supply. Local testing revealed a PFOS level of 14,000 ppt in the groundwater monitoring well south of the airport. As I mentioned earlier, with assistance from DOH, DEC, EFC, and the local water authority, Suffolk County, action is being taken to connect locations with private drinking water wells to the public water supply and seek reimbursement of costs from the responsible party.

There are 20 million residents in New York State and the Department of Health is relentlessly focused on providing every single person with access to clean drinking water – whether they rely on a public water system or a private well. We will continue our aggressive approach to ensuring water quality for all residents and visitors. As part of those efforts, the Department remains committed to working with the Legislature to improve our laws and strengthen our oversight of drinking water. I hope my testimony today has been helpful in providing context for our efforts, and I look forward to your questions. Thank you.

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