



**ENVIRONMENTAL  
ADVOCATES OF NEW YORK**

YOUR GOVERNMENT WATCHDOG

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*before*

## The New York State Drinking Water Quality Council

**December 18, 2018**

Good afternoon. My name is Rob Hayes, and I am the Clean Water Associate for Environmental Advocates of New York. Thank you for the opportunity to present public comment today.

Environmental Advocates' mission is to protect our air, land, water and wildlife and the health of all New Yorkers. Based in Albany, we monitor state government, evaluate proposed laws, and champion policies and practices that will ensure the responsible stewardship of our shared environment. We work to support and strengthen the efforts of New York's environmental community and to make our state a national leader.

New York's Drinking Water Quality Council has the opportunity to establish the strongest drinking water protections in the nation for PFOA, PFOS, and 1,4-dioxane. By recommending low Maximum Contaminant Levels, the Council will ensure that no contamination crisis in the state goes unnoticed. Residents have the right to know if dangerous levels of these chemicals are in their water. With a federal government that is rolling back clean water safeguards, the Council must step up to safeguard this fundamental right.

As stated on the Department of Health's website, the mission of New York's Drinking Water Quality Council is to provide "science-based recommendations about emerging contaminants in drinking water **to protect public health.**" As this body goes through the decision-making process, first and foremost, protecting public health must be the metric used for arriving at recommendations.

The science is clear: low MCLs are necessary to protect our most vulnerable populations from devastating health consequences. Fetuses and children are especially at risk when exposed to these chemicals, given the increased sensitivity to these toxins in their developing bodies and brains. Any MCLs developed must take these lives into consideration most of all.

Mistakes of the past with other toxic chemicals have taught us that low MCLs for PFOA, PFOS, and 1,4-dioxane must be set. Lead poisoning provides one such example. Until the 1960's, it was thought that unless children had symptoms of nausea, vomiting or seizures from lead poisoning, they were not in danger. These symptoms usually do not show up until the blood lead level reaches over 50-60 micrograms/deciliter. The “acceptable” blood lead level in the U.S. was set at 60 micrograms/deciliter (mcg/dL) until 1971, when it was reduced to a level of 40 mcg/dL. Following a steady stream of epidemiological evidence over the next several decades demonstrating the adverse effects of lead on children’s learning abilities and behavior, the “acceptable” level fell time and time again. The level was lowered to 30 mcg/dL in 1975, 25 mcg/dL in 1985, and 10 mcg/dl in 1991. Currently, while a lead level of zero mcg/dL is desirable, most physicians consider a level <5mcg/dL acceptable.

This incremental shifting of the “acceptable” limit over 20 plus years likely resulted in many children becoming victims of lead poisoning, struggling in school and later at work, with lower IQs and ADHD and behavioral problems. If we had taken a more precautionary approach, we might have been able to do more to protect these children and allow them to lead more successful and productive lives.

**A precautionary approach must be the guiding principle used by the Drinking Water Quality Council and the Department of Health to determine what levels of emerging contaminants are safe for public consumption in drinking water. The establishment of low levels immediately, rather than a process of incremental change, is necessary to protect human health.**

It has now been three years since the water crisis in Hoosick Falls, NY first came to light, soon followed by other discovered contamination in Newburgh, Petersburg, and towns across Long Island. The Council made a promise to these residents that the strongest steps would be taken to ensure that every New Yorker’s water is clean and safe to drink. It is now time to fulfill that promise; three years has been long enough.

Environmental Advocates of New York, along with numerous partners, urge the Council to recommend to the Department of Health:

1. Establish a combined MCL of 4ppt for PFOA and PFOS;
2. Establish an MCL of 0.30µg/L for 1,4-dioxane; and,
3. Immediately adopt regulations to require statewide drinking water testing of UCMR 3 emerging contaminants.

The rest of our comments are devoted to the scientific basis for these recommendations.

## **PFOA and PFOS**

Studies have shown that exposure to PFOA and PFOS can lead to thyroid disease, testicular cancer, kidney cancer, pre-eclampsia and ulcerative colitis.<sup>1</sup> Due to widespread use in common

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<sup>1</sup> “Poisoned Legacy: The C8 Science Panel,” EWG, last modified May 1, 2015, <https://www.ewg.org/research/poisoned-legacy/c8-science-panel>

items like Teflon products and firefighting foam, these chemicals are increasingly being detected at unsafe levels in drinking water supplies across the country.

The PFOA and PFOS water crises in Hoosick Falls, Newburgh, and Petersburg are by now well-known across the state. However, it is important to remember that communities across New York will benefit from low MCLs for these chemicals. Public water systems serving small, rural populations are not currently required to test for PFOA and PFOS in their water. Contamination may be present, and the public may be unaware. At the Seneca Army Depot, for example, formerly operated by the Department of Defense, water samples tested as high as 8,300 ppt of PFOS, and 89,000 ppt for PFOA.<sup>2</sup> It remains to be seen whether the many water systems serving fewer than 10,000 residents surrounding the base will test for elevated levels of PFOA and PFOS. With low MCLs, residents can rest assured that any pollution discovered will be properly remediated.

No level of exposure to PFOA or PFOS has been shown to be safe. The most recent science recommends that a far lower MCL than EPA's current health advisory level of 70 ppt is needed to protect public health. A report from the CDC's ATSDR found that 7 ppt for PFOS and 11 ppt for PFOA are the levels that may actually be safe for public health.<sup>3</sup> Prior to the release of the CDC study, NRDC released a report with similar findings, recommending a combined MCL of 4-10ppt for PFOA and PFOS.<sup>4</sup> However, since that time, NRDC has updated its recommendations given the updated toxicology information available in the ATSDR study. NRDC has since publicly advocated for an MCL between 2 and 5 ppt based on this most recent science.<sup>5</sup>

**The Council must take extreme caution when determining how much of these dangerous chemicals are present in our drinking water, and should recommend a combined MCL for PFOA and PFOS of 4ppt to be protective of public health and the environment.**

### **1,4-Dioxane**

1,4-dioxane, a chemical determined likely to be carcinogenic to humans by the EPA, has been found in drinking water sources across Long Island at levels far higher than EPA's lifetime cancer risk guideline of 0.35µg/L (micrograms per liter). Exposure to this chemical, widely used in detergents and other personal care products, has been shown to increase the likelihood of

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<sup>2</sup> Peter Mantius, "Carcinogenic Chemicals That Plague Hoosick Falls are Rampant at Seneca Army Depot," *Water Front*, last modified November 20, 2018, <https://waterfrontonline.blog/2018/11/20/carcinogenic-chemicals-plaguing-hoosick-falls-are-rampant-at-seneca-army-depot/>

<sup>3</sup> "New ATSDR Study, Released Amid Controversy, Calls Current EPA Recommendations into Question," *Lexology*, last modified June 26, 2018, <https://www.lexology.com/library/detail.aspx?g=8eb0cb13-2f9f-4139-8eda-95b7ed98cc53>

<sup>4</sup> Kimberly Ong, "NRDC Releases Report on PFOA, Urging Prompt Regulation," *NRDC*, last modified February 27, 2018, <https://www.nrdc.org/experts/kimberly-ong/nrdc-releases-report-pfoa-urging-prompt-regulation>

<sup>5</sup> Cyndi Roper, Erik Olson, and Mekela Panditharatne, "Re: Recommendations Regarding the Regulation of Perfluorooctanoic Acid (PFOA), Perfluorooctanesulfonic Acid (PFOS), Perfluorononanoic Acid (PFNA), Perfluorohexane Sulfonic Acid (PFHxS), GenX, and Related Per- and Polyfluoroalkyl (PFAS) Chemicals in Drinking Water," December 5, 2018, <https://www.nrdc.org/sites/default/files/nrdc-request-pfas-rulemaking-mi-sdwa-20181205.pdf>

tumors in animals and can be toxic to developing fetuses. Massachusetts already has drinking water guidance for 1,4-dioxane set at 0.30µg/L.<sup>6</sup>

**The Council must recommend an MCL for 1,4-dioxane no higher than 0.30µg/L to ensure residents across Long Island and New York are not exposed to unsafe levels of this chemical.**

### **Emerging Contaminant Testing**

During the hearings on Water Quality and Contamination held by the Legislature in September 2016, the Department of Health rightfully stated that communities under 10,000 residents also have a right to know what is in their water. In their testimony, they stated that they 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.” They went on to state that if EPA does not act, New York would step up.

As the Department stated in their testimony at that hearing, Hoosick Falls only found out about the unregulated contaminant, PFOA, in their water because a village resident took the initiative to test his own water. **The council must recommend urgent and immediate adoption regulations to require statewide testing for UCMR 3 emerging contaminants to ensure there aren’t other communities in NYS that are in the same situation as Hoosick Falls.** The longer it takes for testing to begin, the longer residents will be in the dark.

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<sup>6</sup> [https://www.eastham-ma.gov/sites/easthamma/files/uploads/document17\\_0.pdf](https://www.eastham-ma.gov/sites/easthamma/files/uploads/document17_0.pdf)