

Testimony of Henry L. Hamilton

before the

United States House of Representatives
Committee on Science

Hearing on

H.R. 798, the Methamphetamine Remediation Research Act of 2005

New York State Department of Environmental Conservation
Denise M. Sheehan, Acting Commissioner

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On behalf of Acting Commissioner Sheehan, I want to thank you for allowing the New York State Department of Environmental Conservation (Department) to present its views on the growing issue of methamphetamine use and manufacture in New York State, and on how H.R. 798 may assist the State with its efforts to stem this problem. I am Henry Hamilton, the Department's Assistant Commissioner for Public Protection.

Under Governor George E. Pataki, New York State law enforcement and public safety agencies, including the Department, are prioritizing a variety of means to stem illegal drug trafficking in New York State. Through the initiatives which New York's criminal justice agencies have put in place, the Governor was able to note in his 2005 State of the State address that New York is now the safest large state in the Nation. But the growing threat of illegal drugs like methamphetamine makes it clear that we must continue to focus resources to quell this threat and continue our progress in protecting public safety. Governor Pataki has proposed legislation that would specifically target clandestine laboratories (clan labs) which produce illegal drugs. The proposal also makes possession of specific ingredients used to illegally manufacture controlled substances with the intent to manufacture such controlled substances a crime. The Governor's proposal also imposes significant penalties upon the individuals who operate these laboratories as well as those who assist the operators by, among other things, knowingly procuring, transporting or storing the substances or equipment needed to operate the laboratories.

While I will focus today on the Department's role, I want to emphasize the importance of all the involved agencies, working together, to combat this growing public health and safety threat. Our State agencies have worked collaboratively to address many issues surrounding the illegal manufacturing of methamphetamine. It has become apparent that the problems associated with methamphetamine production, distribution and use, are very broad and are relevant to several state agencies. As such, a number of these agencies have started to coordinate and work toward a statewide strategy to deal with these issues. Part of this effort will be to continue to look at deficiencies in State law and develop proposals to deal with these issues.

Operated in secret, clan labs are used to produce chemical or biological agents, explosives, drugs or other hazardous substances. The most commonly occurring clan labs are used to produce the drug methamphetamine. In New York State, these labs are most frequently located in rural and semi-rural areas. According to the New York State Police, between 1989 and 1999, there were only four methamphetamine laboratories found in New York State. Since then, the number of labs has risen quickly and steadily, from 8 in 2000 to 19 in 2001, 45 in 2002, and 73 in 2003. The rate at which these labs are proliferating is similar to what began occurring in the Midwest during the mid to late 1990s.

There are about 150 different ways to manufacture methamphetamine. Recipes are readily available, including on the internet, and so are the ingredients. In New York State, the two most common manufacturing methods are known as the “Birch” method and the “Red Phosphorus” or “Red P” method. The former is found mostly in western New York State and some basic ingredients are pseudoephedrine/ephedrine, anhydrous ammonia, lithium, ether, water and hydrochloric acid. The latter method, found mostly in central and northeastern New York State, utilizes, in addition to pseudoephedrine/ephedrine and hydrochloric acid, hydriodic acid, iodine, red phosphorous from matchbook striker plate or road flares, and lye.

To date, fewer clan labs have been identified in New York State than in many other areas of the country, and those that have been found occur mostly in areas near the Pennsylvania or Canadian borders. The slow growth of clan labs in the State likely stems from the State’s ban of the sale of dietary supplements containing ephedrine alkaloids in 1996. Similar federal legislation only took effect in April 2004. Without available sources of ephedrine alkaloids in New York State, clan labs have been forced to use products containing pseudoephedrines, such as over-the-counter decongestants, which are time-consuming to distill into illegal methamphetamine drugs. Nevertheless, methamphetamine use has begun to grow in New York State – particularly New York City.

The New York State Office of Alcoholism and Substance Abuse reports an increasing trend

in methamphetamine treatment admissions in New York State. There were approximately 500 admissions in 1996 with an increase to almost 1,150 in 2003. Significantly, much of this increase is attributable to clients whose primary substance abuse involves methamphetamine. The primary route of administration by users is oral, followed by smoking, inhalation and injection, respectively.

The Department's Environmental Conservation Officers (ECOs), made up of both uniformed police officers and plainclothes investigators, work with other federal, State and local law enforcement agencies in investigating these clan labs. The criminal investigations on which the ECOs focus involve the threat to human health and the environment, particularly the illegal disposal of hazardous waste, and toxic substances which may have been released into the environment. Violations of the New York State Environmental Conservation Law by clan labs include misdemeanor and felony pollution charges.

The Department's environmental remediation staff includes responders with expertise in the identification and clean up of contaminated sites, including those at which the volatile chemicals used in the manufacture of methamphetamine are found. In conjunction with the efforts of the ECOs, remediation staff attempt to locate where chemicals from the clan lab have been disposed, perform an initial identification of those chemicals found, and coordinate the removal of chemicals that are an immediate threat to public health, safety and the environment. Given the volatile nature of the chemicals used to manufacture methamphetamine, these activities are hazardous, and require specialized training to ensure staff safety.

Environmental concerns at clan labs are extensive. A variety of ignitable, corrosive, toxic or reactive wastes can result from the manufacture of methamphetamine. Red phosphorous, lithium, and many other chemicals used during production of methamphetamine are also highly flammable or combustible. The improper handling or storage of these items by methamphetamine users and producers increases the potential for fires and explosions. Furthermore, these chemicals may migrate into drinking wells; be drained into septic systems; or be dumped off-site. It is estimated that for each pound of methamphetamine produced, four to six pounds of toxic waste are generated.

“Cookers,” the people involved in making methamphetamine, may not know or care about the dangers of the substances which they are using. Labs, which can be located anywhere, from apartments and motel rooms to motor vehicles, can explode, endangering the lives of anyone in the lab, as well as those who may reside nearby. This can pose a particularly dangerous threat to children living in or near these labs. To ensure the safety of both law enforcement and remediation staff who must deal with these dangerous sites, and to facilitate evidence gathering, the Department believes guidance should be developed to ensure the effective use of resources and provide uniformity in responding to clan labs in New York State.

One of the substances of greatest concern in the manufacture of methamphetamine is anhydrous ammonia. This liquid, which is used on farms to fertilize crops, is both toxic and corrosive, and expands to 800 times its original volume when exposed to ambient air. Methamphetamine manufacturers have been known to steal quantities of anhydrous ammonia from storage tanks on farms in rural areas. Frequently, they leave the anhydrous ammonia storage tank open, allowing the anhydrous ammonia to empty out of the tank. As a gas, anhydrous ammonia reacts with moisture to form ammonium hydroxide, a corrosive substance that is irritating to the eyes, nose, throat, lungs, mucous membranes and skin. It can cause dizziness, chemical burns, and can seriously affect the central nervous system, even causing death. Exposure to ammonia vapors may result in pulmonary edema. Anyone who happens to come near such a tank as it is emptying is in danger. For the same reason, law enforcement personnel stopping a suspect after an anhydrous ammonia theft might be in danger. Of course, there is also a potential for adverse environmental impact from groundwater contamination. In addition, such thefts can place a significant financial hardship on the farmers from whom the anhydrous ammonia was stolen.

Environmental contamination may include indoor environments as well as outdoor environments such as soil, water supplies, septic systems and air. Indoor environments may become contaminated when the chemicals and fumes formed during methamphetamine production penetrate or adhere to porous surfaces such as upholstery, drapes, linens, carpeting, and sheet rock. Other surfaces (e.g., furniture, counter tops,

floors) can be contaminated by spills or emissions of chemicals during drug manufacture. The residues in these indoor environments can continually expose individuals until the contaminated surfaces are properly cleaned or the contaminated materials removed. Again, this type of environment can be a particularly dangerous setting for children living in or near these labs.

As a result of these concerns related to anhydrous ammonia, in August 2004, Governor Pataki signed legislation (Chapter 357, Laws of 2004) requiring the Department to conduct a study on whether or not it would be feasible to introduce an additive into anhydrous ammonia that would prevent it from being used to manufacture methamphetamine. The statute takes effect on April 1, 2005, providing the Department with time to work with the New York State Departments of Health, Agriculture and Markets, and the New York State Police to study and make recommendations on this important issue. The statute requires the Department to issue a report containing such recommendations by April 1, 2006.

As I previously mentioned, our State agencies have worked collaboratively to address many issues surrounding the illegal manufacturing of methamphetamine and we will continue this effort.

On behalf of Acting Commissioner Sheehan, I want to thank you for allowing the Department to submit its comments on the activities which we currently undertake to investigate and remediate clan labs. We look forward to working with the Committee on strategies to address this growing threat to the State's public health and environmental quality.