July 28, 2020

Colleen Leonard
Executive Secretary
Public Health and Health Planning Council
Empire State Plaza, Corning Tower, Room 1805
Albany, NY 12237

Jeffrey A. Kraut
Chair, Public Health and Health Planning Council
Associate Dean, Zucker School of Medicine at Hofstra/Northwell

Re: Vote on the proposed Maximum Contaminant Levels for perfluorooctanoic acid (“PFOA”), perfluorooctanesulfonic acid (“PFOS”) at the upcoming meeting of the Public Health and Health Planning Council

Dear Madam Secretary and Mr. Chairman,

We are writing regarding the July 30th meeting of the Public Health and Health Planning Council ("PHHPC" or the "Council"), during which the Council will consider for adoption the New York State Department of Health’s ("DOH") proposed amendments to 10 N.Y.C.R.R. part 5, subpart 5-1 setting maximum contaminant levels ("MCLs") for three emerging contaminants: PFOA, PFOS, and 1,4-dioxane.

First, we want to thank you all for moving forward with the PHHPC despite the difficult circumstances we are contending with, and for putting the MCL proposal on the agenda for the full committee meeting. It is critical that New York State finalize the rulemaking process, and we applaud you for the flexibility needed to take this important step forward.

Adopting MCLs for PFOA, PFOS, and 1,4-dioxane will safeguard the health and well-being of communities around the State, many of which have already been exposed to these toxic
chemicals for years or even decades. DOH estimates that over 20% of the State’s public water systems will exceed the proposed MCLs for PFOA and PFOS. At the same time, over 2,000 water systems, serving 2.3 million New Yorkers, are not yet required to test for PFOA, PFOS, or 1,4-dioxane. Establishing enforceable drinking water standards will help protect communities like Hoosick Falls and Newburgh that are grappling with known exposure at levels harmful to human health—and the vast majority of the State that is still in the dark about the quality of their drinking water.

While the MCLs proposed by DOH would be a significant improvement over the status quo, we urge you to finalize more protective standards to ensure all New Yorkers have clean, safe drinking water.

The proposal would still allow exposure to PFOA, PFOS, and 1,4-dioxane at levels above health-based thresholds. Massachusetts has established a health-based drinking water guideline for 1,4-dioxane of 0.3 ppb, more than three times lower than DOH’s proposed MCL for 1,4-dioxane of 1 ppb.¹ Adverse health effects from PFOA can be expected from exposure at levels as low as 1 ppt.² The European Food Safety Authority recently published a study that, when extrapolated, calls for PFOA and PFOS drinking water standards 5 to 10 times lower than what is proposed here.³ One of the leading experts in the field has suggested that a health-protective drinking water standard for all PFAS could be as low as 0.1 ppt,⁴ or 100 times more protective than DOH’s proposal, which sets a standard of 10 ppt for PFOA and PFOS individually.

The latest science also increasingly points to regulating PFAS as a class. A study published last month found that “the high persistence, accumulation potential, and/or hazards (known and potential) of PFAS studied to date warrant treating all PFAS as a single class.”⁵ A 2019 study found that there is likely no safe level of exposure to PFAS, and that MCLs should be set as close to zero as possible.⁶ There are thousands of PFAS chemicals, and the


research demonstrates that "traditional approaches have failed to control widespread exposures to PFAS and resulted in inadequate public health protection."\(^7\)

At a minimum, drinking water standards should regulate PFOA and PFOS in combination rather than individually. To be health-protective, the standards for all three chemicals should be set at a combined 2 ppt for PFOA and PFOS and 0.3 ppb for 1,4-dioxane. Ultimately, New York State must address the entire class of PFAS.

We are also concerned that the standard proposed by DOH allows water suppliers to avoid compliance with these important public health measures for up to three years. Such a provision unnecessarily delays the implementation of critical public health measures and prolongs New Yorkers’ exposure to these toxic chemicals.

The proposal before the Council is an important first step to address emerging contaminants. But the science shows that more stringent standards are needed to protect us from the adverse health effects of 1,4-dioxane and PFAS. 1,4-dioxane is considered a likely human carcinogen by US EPA. PFAS exposure has been linked to kidney and testicular cancer, thyroid and liver disease, birth defects, reproductive and development harms linked to increased risk of breast cancer, and numerous other conditions.\(^8\) Moreover, the Centers for Disease Control and Prevention have found that, by impacting the immune system, PFAS exposure may increase the risk of contracting infectious diseases like COVID-19.\(^9\) The National Institutes of Health have also linked PFAS exposure to weakened vaccine response, which threatens exposed communities with continued risks from COVID-19 even if a vaccine is developed.\(^10\)

For these reasons, we urge the Council to put the health of New Yorkers first as it considers these important drinking water standards. The Council should vote to establish regulations that will be truly health-protective. If the Council adopts the regulations as proposed, we urge you to use your statutory authority and provide a formal recommendation to DOH that the regulations be reviewed on an annual basis, on the anniversary of their adoption, and revised as needed to reflect the latest science and technology.

Thank you for keeping this information in mind as you consider these important regulations.

Sincerely,

---

\(^7\) Kwiatkowski et al.
Ramsay Adams
Executive Director
Catskill Mountainkeeper

Chuck Thomas
Co-Chair
City of Newburgh Conservation Advisory Council

Kathy Curtis
Executive Director
Clean and Healthy NY

Alok Disa
Senior Research and Policy Analyst
Earthjustice

Rob Hayes
Clean Water Associate
Environmental Advocates NY

Eric Weltman
Senior Organizer
Food and Water Action

Yvonne Taylor
Co-Founder and Vice President
Gas Free Seneca

Manna Jo Greene
Environmental Director
Hudson River Sloop Clearwater

Karen Miller
Huntington Breast Cancer Action Coalition

Chad Radock
State Coordinator
Local Progress NY

Lisa Tyson
Director
Long Island Progressive Coalition

Alexandra Zissu
Moms for a Non-Toxic New York
Ophra Wolf
Marcel Barrick
Deborah Brown
Mary Wagner
**Newburgh Clean Water Project**

Elizabeth Moran
Environmental Policy Director
**New York Public Interest Research Group**

Michele Baker
Jennifer Plouffe
Connie Plouffe
Michelle O’Leary
**New York Water Project, Hoosick Falls**

Elie Ward, MSW
Director of Policy and Advocacy
**NYS American Academy of Pediatrics, Chapters 1, 2 & 3**

Lorey A. Zaman
President
**NYS Parent Teacher Association**

Jack Caldwell
**Quassaick Creek Watershed Alliance**

Victoria Leung
Associate Staff Attorney
**Riverkeeper, Inc.**

Frank Natalie
Business Agent
**UA Plumbers and Steamfitters, Local 7**

Joseph Campbell
President
**Seneca Lake Guardians**

Andrea Spilka
President
**Southampton Town Civic Coalition**

Ramona Burton
John Clark
Tal Gluck
cc: Dr. Howard Zucker, Commissioner of Health
    Paul Francis, Deputy Secretary for Health
    Gary Ginsberg, Director of Center for Environmental Health
    Roger Sokol, Ph.D., Director of Division of Environmental Health Protection
    Brad Hutton, MPH, Deputy Commissioner Office of Public Health
    Jo Ivey Boufford, M.D., PHHPC Member
    Judy L. Baumgartner, PHHPC Member
    John D. Bennett Jr., M.D., F.A.C.C., F.A.C.P., PHHPC Member
    Howard S. Berliner, Sc.D., PHHPC Member
    Lawrence S. Brown, Jr., M.D., M.P.H., FASAM, PHHPC Member
    Kathleen Carver Cheney, Esq., PHHPC Member
    Angel Alfonso Gutierrez, M.D., PHHPC Member
    Thomas Holt, PHHPC Member
    Gary Kalkut, M.D., PHHPC Member
    Scott P. La Rue, MBA, RD, PHHPC Member
    Harvey Lawrence, PHHPC Member
    Glenn Martin, M.D., DLFAPA CIP, PHHPC Member
    Ann F. Monroe, PHHPC Member
    Mario R. Ortiz, R.N. Ph.D., F.A.A.N., PHHPC Member
    Ellen L. Rautenberg, M.H.S., PHHPC Member
    Peter G. Robinson, M.P.H., PHHPC Member
    John Rugge, M.D., PHHPC Member
    Nilda I. Soto, MS Ed, PHHPC Member
    Theodore Strange, M.D., F.A.C.P., PHHPC Member
    Hugh Thomas, Esq., PHHPC Member
    Anderson Torres, Ph.D., LCSW-R, PHHPC Member
    Kevin Watkins, M.D., M.P.H., PHHPC Member
    Patsy Yang, Dr.P.H, PHHPC Member