

**Catskill Mountainkeeper • City of Newburgh Conservation Advisory Council
Clean and Healthy NY • Earthjustice • Environmental Advocates NY
Food and Water Action • Gas Free Seneca • Hudson River Sloop Clearwater
Huntington Breast Cancer Action Coalition • Local Progress NY
Long Island Progressive Coalition • Moms for a Non-Toxic New York
Newburgh Clean Water Project • New York Public Interest Research Group
New York Water Project, Hoosick Falls • NYS American Academy of Pediatrics,
Chapters 1, 2 & 3 • NYS Parent Teacher Association
Quassaick Creek Watershed Alliance • Riverkeeper, Inc. • Seneca Lake Guardians
Southampton Town Civic Coalition • UA Plumbers and Steamfitters, Local 7
Stewart Air National Guard Restoration Advisory Committee Community Members**

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

¹ See Massachusetts Department of Environmental Protection, “Standards and Guidelines for Contaminants in Massachusetts Drinking Waters,” Winter 2020, <https://www.mass.gov/doc/2020-standards-and-guidelines-for-contaminants-in-massachusetts-drinking-waters/download>.

² See New Jersey Drinking Water Quality Institute, Maximum Contaminant Level Recommendation for Perfluorooctanoic Acid in Drinking Water: Basis and Background at 3 (Mar. 2017), <https://www.nj.gov/dep/watersupply/pdf/pfoa-recommend.pdf>; Alissa Cordner et al., Guideline Levels for PFOA and PFOS in Drinking Water: the Role of Scientific Uncertainty, Risk Assessment Decisions, and Social Factors, 29 J. Exposure Sci. & Env'tl. Epidemiology 157, 163 (2019), <https://www.nature.com/articles/s41370-018-0099-9>.

³ See European Food Safety Auth., Panel on Contaminants in the Food Chain, *Scientific Opinion: Risk to Human Health Related to the Presence of Perfluorooctane Sulfonic Acid and Perfluorooctanoic Acid in Food* (adopted Mar. 22, 2018), <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2018.5194>; see also Kimberly Ong, NRDC, *NY Drinking Water Quality Council Recommends Regulating PFOA* (Dec. 18, 2018), <https://www.nrdc.org/experts/kimberly-ong/ny-drinking-water-quality-council-recommends-regulating-pfoa>.

⁴ See Sharon Lerner, *Teflon Toxin Safety Level Should be 700 Times Lower than Current EPA Guideline*, The Intercept, June 18, 2019, <https://theintercept.com/2019/06/18/pfoa-pfas-teflon-epa-limit/>.

⁵ Carol F. Kwiatkowski et al., *Scientific Basis for Managing PFAS as a Chemical Class*, ___ Env'tl. Sci. Tech. Ltrs. ___ (2020), <https://pubs.acs.org/doi/10.1021/acs.estlett.0c00255>.

⁶ See Anna Reade & Erik D. Olson, NRDC, *Michigan Should Set Precedent-Setting PFAS Water Standards*, Apr. 1, 2019, <https://www.nrdc.org/experts/anna-reade/michigan-should-set-precedent-setting-pfas-water-standards>.

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.

⁸ See Melanie Benesh, Env’tl. Working Grp., *PFAS Exposure May Increase Risk of Breast Cancer*, Oct. 24, 2019, <https://www.ewg.org/news-and-analysis/2019/10/pfas-exposure-may-increase-risk-breast-cancer>.

⁹ Agency for Substances and Disease Registry, *Statement on Potential Intersection between PFAS Exposure and COVID-19*, <https://www.atsdr.cdc.gov/pfas/health-effects/index.html> (last updated June 24, 2020).

¹⁰ Phillippe Grandjean et al., Nat’l Institute of Env’tl. Health Sciences, *PFAS Exposure in Infancy Linked to Reduce Vaccine Response*, <https://www.niehs.nih.gov/research/supported/sep/2017/pfas-exposure/index.cfm> (last reviewed Apr. 23, 2019).

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