

September 18, 2009

Mark N. Mauriello
Office of the Commissioner
NJ Department of Environmental Protection
401 E. State Street
7th floor, East Wing
P.O. Box 402
Trenton, New Jersey 08625-0402

Re: **NJDEP website**

Dear Commissioner Mauriello,

We, a coalition of groups concerned about PFOA in the State's water supply, have received no correspondence in response to our April 28, 2009 letter. However, we understand from Department staff that the status report posted on line on August 8, 2009 entitled **Status of NJDEP PFOA Activities - 8/8/09** (http://www.state.nj.us/dep/dsr/pfoa_doc.pdf) was intended to address the issues we raised in the letter. We provide these comments and questions on the Status Report.

New Jersey Health-based Drinking Water Guidance

We commend the Department on developing a health-based guidance level intended to protect for lifetime exposure (normally defined as 70 years). This level is based on data gathered by the Department here in New Jersey and on scientific research as explained in the peer-reviewed article in Environmental Science and Technology that is posted on the Department's website. (<http://pubs.acs.org/doi/abs/10.1021/es900301s>) New Jersey has proven itself to be leader by establishing this scientifically based level of 0.04 ppb, the strictest in the Nation.

Development of New Jersey Drinking Water Quality Standard

We support the Department's efforts to make an MCL recommendation for PFOA a "top priority" of the Drinking Water Quality Institute. It is vitally important that the public receive the protection that a health-based drinking water standard would provide as soon as possible.

Testing of Private Wells Near DuPont Chambers Works

We find it unacceptable that DuPont is only providing treatment to those private wells that exceed the USEPA Provisional Health Advisory level of 0.4 ug/L. Because the Department has developed a drinking water guidance level of 0.04 ug/L based on lifetime exposure, we consider this to be the only acceptable safe level. Bottom line, those who drink the water near DuPont's Chambers Works facility deserve and require protection from the health risks of drinking water that contains levels of PFOA that exceed NJDEP's protective guidance level.

Through the Freedom of Information Act, we have reviewed the results of DuPont's most recent private well water test results. It appears that only one well will require that DuPont provide an alternate water supply or treatment. Yet, more than half of the wells tested showed levels of PFOA that exceed the NJDEP guidance level of 0.04 ug/L. The Department is allowing people to drink water that they have determined through scientific analysis to be unsafe because DuPont has insisted on using the lower standard of .4 ug/L.

Despite whether the MCL process has been completed, the data and research done by the Department has concluded that drinking water should not exceed 0.04 ug/L. DuPont's voluntary cooperation should not be secured by an agreement to settle on the use of a lower, less protective drinking water standard.

We are concerned that the well water users who have water that tested between .4 ug/L and 0.04 ug/L are unaware that they have fallen in this "donut hole". Has the Department or DuPont informed these residents that their water exceeds the Department's guidance level? We strongly urge the Department to issue a Fact Sheet or Information Sheet to these residents so they may take action on their own.

A lack of knowledge about the Department's guidance level leaves these residents in the dark about the risks associated with their drinking water. Previously the Department connected residents with the NJ Department of Health for information and advice regarding PFOA water test results. This or another contact should be set up again for all residents who fall into the PFOA donut hole. We consider this an urgent matter that requires immediate action to fully inform those who are drinking this water.

We further suggest that the Department put the results of the recent private well testing on the DEP's website. The Department's guidance document and scientific reports are on line, which is very helpful to those who want to inform themselves on this important issue. Placing the results of the recent rounds of private well testing on the website will help to inform water consumers and the public and fulfills an important public service.

We support action to add PFOA and other perfluorinated chemicals to the list of compounds for which reporting is required under the New Jersey Community Right-to-Know Act. This is essential so that people can know whether or not these chemicals are being used near them or their water source.

We do not consider it justifiable to use public funds, however, to provide alternate water supply or treatment for water contaminated with PFOA or other perfluorinated chemicals when the source of the contamination is known. The evidence at the Chambers Works is very clear; DuPont caused the pollution and DuPont should pay to clean it up.

New Jersey Interim Specific Ground Water Quality Criterion for PFOA

We support the Department taking action now to develop an interim specific ground water criterion. This is the method that can be used to enforce a health-based standard based on lifetime exposure, now set by the Department at 0.04 ug/L. It is

urgent that people drinking water above that standard be protected on an interim basis while the MCL recommendation is finalized. The Department has projected the fall of 2009 as the timeframe for the final strategy on this action. When will action be taken on this approach?

Listing of PFOA and Related Compounds in New Jersey Community Right-to-Know Regulations

We reiterate our concerns that DuPont continues to manufacture fluorotelomers at the Chambers Works site. Since the phase out of the manufacture of PFOA does not include fluorotelomers and since the testing of fluorotelomers will continue until at least 2011, the community surrounding the Chambers Works Plant will continue to be exposed to these dangerous PFOA-producing chemicals.

We support the immediate listing of PFOA and these related chemicals in the Right-to-Know Law. There may be other locations in the state that manufacture and use these chemicals and it is critically important that these locations be known to the public, the Department and other agencies. Listing alone is not enough, however. This important action must be taken in conjunction with action by the Department to set a mandatory interim water criterion while the MCL recommendation is completed.

Reporting of Air Emissions for PFOA and Related Compounds

We support the listing of PFOA and related compounds as a regulated contaminant for which reporting of air emissions is required. This will capture all locations in the State where these chemicals are used or manufactured, an important step since air is considered a method of transport of PFOA and related compounds in the environment. We also reiterate our request that the Department require an air permit modification immediately to add PFOA and related compounds to DuPont's air permit.

Occurrence of PFOA in New Jersey Public Drinking Water Systems

We commend the Department for conducting further study of perfluorinated chemicals across the State. We are interested in the Scope of Work that is guiding this study and request a copy of the Scope of Work and request that the data and report of the study be publically shared as soon as they are ready. We agree that the full suite of these chemicals need to be tested for and support the Department's action to widen the scope of study.

How were the sample sites chosen? Are these the same sample sites previously tested? When the chemicals are listed under the Right-to-Know law, will the Department be identifying additional sites if warranted based on learning new locations that may be at risk? Is the Department taking samples or are water companies/systems required to test and report for these chemicals? When will the results of this study be available?

Actions Taken to Address PFOA in New Jersey Public Water Systems

We are concerned that the "annual average" PFOA levels are being used to trigger action by a water supplier. Is the Department tracking all exceedences? What about

high levels that may occur seasonally or when water sources for a supplier are blended? The use of the annual average PFOA level allows high levels to be consumed by people on a day to day basis without any action to remedy the contamination unless the annual average exceeds 0.04 ppb. We do not consider this to be effectively protective of human health.

Also, it allows water suppliers whose water may have levels exceeding 0.04 ppb at certain times to escape notice and the requirement to remediate the problem. Suppliers who may be operating just under the threshold could exceed the threshold at some point without being discovered and/or they may deliver contaminated water episodically year in and year out, exposing consumers to health risks. We advocate for the tracking and remediation of all water that exceeds the Department's PFOA guidance level of 0.04 ppb based on a more conservative measure, such as the daily or weekly median.

The actions taken by the four water suppliers with annual average PFOA levels exceeding the guidance level are very patchy. One supplier is blending to lower the annual average (again, we do not agree that the annual average is protective enough) but the other suppliers have only been either monitoring or planning. One supplier has taken no action at all. This is unacceptable. Are these three suppliers providing monitoring reports for PFOA to the Department? What will the Department do to remedy this situation?

We support the Department's efforts to address the exceedences by these water suppliers but we feel more needs to be done to make the water from these systems safe to drink. The Department should require further action now by these suppliers to address all exceedences.

Thank you for your consideration of the Coalition's concerns. We look forward to your response.

Sincerely,

Maya van Rossum, the Delaware Riverkeeper
Tracy Carluccio, Deputy Director, Delaware Riverkeeper Network

Cheryl Reardon, Project Director, Association of NJ Environmental Commissions

Amy Goldsmith, Director, New Jersey Environmental Federation

Denise Patel, Campaign Organizer, Chemical Safety and Security, New Jersey Work Environment Council

Roy Jones, Coordinator, South Jersey Environmental Justice Alliance

James T. Rowe, President, United Steelworkers of America (USW) Local 4-943