July 18, 2020

Honorable Andrew Cuomo
Governor
Executive Chamber
Capitol
Albany, NY 12234

Re: Signing S.7880-B/A.9952-B, a ban on AFFF incineration in Cohoes, into law

Dear Governor Andrew Cuomo:

We, the undersigned organizations, write to urge you to sign S.7880-B/A.9952-B into law, which would prohibit the incineration of aqueous film-forming foam (also known as AFFF) and associated perfluorocarbon (PFAS) chemicals in cities with a Department of Environmental Conservation (DEC) designated environmental justice area and with a population size between 16,000 to 17,000. It is imperative to sign this legislation to ensure environmental justice area designations do what they are intended to – protect communities from environmental harms.

Norlite, a hazardous waste incinerator operating in Cohoes, NY next to a public housing complex and within a DEC designated environmental justice area, signed a five-year contract with the United States Department of Defense to incinerate AFFF. In 2018 and 2019, Norlite burned 2 million pounds of AFFF in its Cohoes facility. According to the Wall Street Journal, the incinerated material came from 60 military facilities in 25 states.1

There is no evidence to indicate that burning PFAS firefighting foam is an effective means of destroying these chemicals. In fact, emerging data has shown that incineration may not completely destroy the chemicals and may disperse them through the air.

There is significant concern that the burning of these chemicals at Norlite has contaminated the air and water in Cohoes and neighboring communities.

The U.S. Environmental Protection Agency (US EPA) itself has raised concerns. From its August 2019 Technical Brief: “PFAS compounds are difficult to break down due to fluorine's electronegativity and the chemical stability of fluorinated compounds. Incomplete destruction of PFAS compounds can result in the formation of smaller PFAS products, or products of incomplete combustion, which may not have been researched and thus could be a potential chemical of concern.”; Recent test results released by researchers at Bennington College appear to confirm EPA’s concerns.

Preliminary soil sample data collected by Bennington College researchers found PFAS contamination patterns that strongly suggests the AFFF is not being destroyed by incineration. According to Bennington College researchers, the most prevalent PFAS compound found near the Norlite facility was PFBA, a PFAS chemical that is rarely detected in soil; however, it has been strongly associated with partially degraded AFFF. Bennington College’s researchers also found that the pattern of contamination around Norlite strongly resembles patterns found at other sites of known contamination, like firefighting training centers and Air Force bases. Additionally, the levels of PFAS chemicals detected exceeded background levels.

Thankfully, Cohoes adopted a one-year moratorium on burning AFFF in law; however, the U.S. Department of Defense attempted to send new shipments of AFFF to Norlite in May 2020. Norlite tried to find other incinerators to accept the waste and in a May 15, 2020 informed the Department of Defense that no other incinerator would accept it. From the letter: "Tradabe has reached out to every approved RCRA incinerators on the DLA qualified facility list only to receive rejection notices from all of them based on the volatility and uncertainty of the destruction of PFOS and PFOA’s.”

The Department of Defense and Norlite have cancelled their five-year contract after two years. However, this legislation is still needed because private businesses and other states could still send AFFF to this facility.

Unfortunately, this is a new threat on top of New York’s existing history with PFAS chemicals and AFFF. According to the US EPA perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), and other PFAS chemicals, which are used in firefighting foam, have been linked to cancer, developmental effects on fetuses and infants, liver effects, thyroid effects and other adverse health impacts. These chemicals have been found in the drinking water supplies serving millions of New Yorkers, including those in Hoosick Falls, Petersburgh, Newburgh, Cairo, numerous communities on Long Island and elsewhere in the state.

Signing S.7880-B/A.9952-B into law is the only way to ensure that the health of Cohoes residents and neighboring communities are not jeopardized by AFFF burning. New York should not permit incineration of PFAS. Neither Cohoes, nor any other community, should serve as the “experimental” zone to determine the safety of incinerating PFAS.

Approval of this legislation into law would signal that New York is acting as a national leader in addressing PFAS contamination and protecting public health. We urge you to sign S.7880-B/A.9952-B into law as soon as possible.

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4 Letter from David Bond to DEC Commissioner Basil Seggos, May 1, 2020
Thank you for your consideration of our comments.

Sincerely,

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