

Interfaith Community Organization

An Affiliate of the Industrial Areas Foundation

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May 4, 2009

Mark N. Mauriello, Commissioner
New Jersey Department of Environmental Protection
401 East State Street
P.O. Box 402
Trenton New Jersey 08625

Re: Enclosed Petitions for Rulemaking

Dear Commissioner Mauriello:

Attached are two Petitions for Rulemaking submitted on behalf of the Interfaith Community Organization (ICO), the GRACO Community Organization, and the Natural Resources Defense Council (NRDC). One petition would implement the recommendation of DEP's Division of Science, Research and Technology to adopt an ingestion-based cleanup standard for hexavalent chromium in soil of 1 part per million for residential sites. The other petition proposes a non-residential ingestion-based cleanup standard for hexavalent chromium in soil of 6 parts per million, based on the same studies NJDEP used to derive the recommended residential standard.

In addition to ensuring that the rule-making process on this matter is handled responsibly, we believe you are obligated to take immediate steps to protect public health in Hudson County and other areas of the state where residents and workers are being exposed to hexavalent chromium. In particular:

- **We ask that you immediately adopt the recommended 1 ppm standard for residential sites on an interim basis.** No cleanups or remedial investigations should proceed using weaker standards.
- **We ask that you immediately suspend the use of "alternate remedial standards" (ARS's) in chromium site remediation.** In the past, the companies responsible for chromium contamination in Hudson County have requested approval of site-specific ARS's far in excess of the cleanup "criteria" (or interim standards) set by DEP. Instead of rejecting such requests, DEP management has instructed case managers to actually facilitate and approve them. This practice has resulted in the issuance of No Further Action letters for sites remediated using standards that are thousands of times weaker than those now being recommended by DEP scientists. To protect public health and lay the groundwork for safe redevelopment of chromium

sites, DEP needs to end the era of site-by-site deal-making, and set and enforce clear and consistent standards.

- **We ask that you immediately suspend approvals of capping as a remedy for cleanups of chromium-contaminated sites in Hudson County.** DEP has already done this, rhetorically. We now ask that you live up to the repeated verbal representations made by former Commissioner Lisa Jackson that capping will no longer be allowed (even while DEP has continued to allow capping in areas deemed “non-residential”). There are abundant studies showing caps do not stop the migration of chromium from chromite ore processing residue (the type of chromium-bearing industrial waste spread throughout areas of Hudson County). There are still more studies showing the poor record of “institutional controls” – the deed restrictions and weak maintenance and monitoring requirements imposed by DEP when caps are permitted. Moreover, in the context of Jersey City’s dense neighborhoods where homes and apartment buildings abut warehouses, small factories and garages, the distinction between “residential” and “non-residential” sites has little meaning. In order to protect public health now and in generations to come, DEP must insist on the use of fully proven, permanent remedies at chromium sites.

Your action on these requests is urgently needed. As you know, people who live and work in Hudson County have been at risk of chronic exposure to hexavalent chromium for decades. Studies funded by the state in the early 1990s documented that such exposures were occurring, resulting in elevated chromium levels in the urine of workers and residents near known chromium sites. Years of unnecessary delays by NJDEP have meant additional years of potential chromium exposures to people in Hudson County. In chronic exposure scenarios such as this one, the adverse effects are cumulative; each additional exposure carries more risk than the one before.

A recent epidemiological study by the New Jersey Department of Health and Senior Services suggests that these possibly cumulative exposures are resulting in adverse health effects; residents near known chromium sites in Jersey City were found to have up to 17% higher lung cancer rates than residents in other areas of the city.

The rates of stomach and other digestive tract cancers in Hudson County have not been examined by the state. Even before the National Toxicology Program (NTP) study, there was ample evidence that chromium is a carcinogen when ingested. (It has long been known as a carcinogen via inhalation.) Shortly before he died of stomach cancer, ICO member George Danzler traveled to Trenton in 1993 to meet with then-Health Commissioner Frances Dunston. Mr. Danzler and ICO asked the Commissioner to investigate apparent clusters of stomach cancers and other unusual cancers among residents living near chromium sites in Jersey City. Commissioner Dunston dismissed

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our concerns about chromium, and then lectured our group on the high-fat dietary habits of African-Americans.

There were many other alarm bells along the way about ingestion of chromium – including academic studies – but for the last several years DEP always claimed to be waiting for results from the definitive study underway by the NTP before taking action. When the NTP findings were released publicly as a draft in May 2007, DEP failed to act promptly, as ICO and NRDC requested (see our attached letter to then-Commissioner Jackson sent in June 2007), to translate the findings of this study into a cleanup standard that protected people from stomach cancer. DEP failed to require its contractor, which has spent hundreds of thousands of taxpayer dollars measuring chromium in household dust, to take the NTP findings into account in its ongoing study. DEP failed to even release the findings of its own internal review of the NTP study until forced to, two weeks ago, by a former DEP scientist's persistence in pursuing an OPRA request.

Now is the time to end DEP's long-standing pattern of delay on this vital issue, and to act promptly and responsibly to protect the people of Hudson County from cancer.

Sincerely,

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Interfaith Community Organization

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