

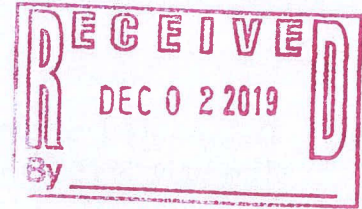


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

NOV 26 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7019 1120 0002 0279 0409



Nancy Seligson, Chairperson
Board of Trustees
Westchester Joint Water Works
1625 Mamaroneck Ave.
Mamaroneck, New York 10543

Re: In the Matter of: Westchester Joint Water Works, (PWS ID No. NY5903435)
Administrative Order, Docket No. SDWA-02-2020-8001

Dear Trustee Seligson:

Enclosed you will find an Administrative Order ("AO"). The AO finds that the Westchester Joint Water Works, owns and/or operates Westchester Joint Water Works, a "public water system" as defined by the Safe Drinking Water Act ("SDWA") and 40 C.F.R. Part 141.2, and are, therefore, subject to its requirements. The Environmental Protection Agency ("EPA") also finds that Westchester Joint Water Works failed to comply with the maximum contaminant level ("MCL") for haloacetic acids required by the Stage 2 Disinfectants and Disinfection Byproducts Rule ("Stage 2 DBPR"), 40 C.F.R. Part 141 Subpart V.

In response to EPA AO Docket No. SDWA-02-2019-8026 (2019 AO), WJWW submitted a corrective action plan to address HAA5 MCL noncompliance. The enclosed AO supersedes the 2019 AO and encompasses the schedules provided by WJWW. While I expect you will fully comply with the enclosed AO, I must advise you that the violation of an AO subjects the violator to an administratively assessed civil penalty not to exceed \$39,936, or a court-imposed penalty not to exceed \$57,317 per day of violation.

I would like to extend an invitation to have our staff meet to review the AO, answer any questions on how to respond to the AO and provide the technical assistance you may need. If you have any questions regarding this matter, please contact Nicole Foley Kraft, Chief, SDWA Compliance Section at (212) 637-3093 or kraft.nicole@epa.gov. Thank you in advance for your cooperation in this matter.

Sincerely,

Dore LaPosta, Director
Enforcement and Compliance Assurance Division

Enclosure

cc: Delory Taylor, NYSDOH-WCDOH
Tina Hunt, NYSDOH

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
290 BROADWAY
NEW YORK, NY 10007-1866**

IN THE MATTER OF:

Westchester Joint Water Works
1625 Mamaroneck Avenue
Mamaroneck, New York 10543

PWS ID. No. NY5903435

Respondent.

Proceedings pursuant to Section 1414(g) of
the Safe Drinking Water Act, 42 U.S.C.
Section 300g-3(g)

ADMINISTRATIVE ORDER
Docket No.
SDWA-02-2020-8001

I. STATUTORY AUTHORITY

The following findings are made and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“USEPA” or “EPA”) by Section 1414(g) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. Section 300g-3(g) (“the Act”), and duly delegated to the Director of the Enforcement and Compliance Assurance Division of Region 2.

II. FINDINGS

1. Westchester Joint Water Works (hereinafter “Respondent”) owns and/or operates the Westchester Joint Water Works (“WJWW”) “public water system,” within the meaning of Section 1401(4) of the SDWA, 42 U.S.C. §300f(4), and 40 C.F.R. §141.2, located in Mamaroneck, New York.
2. Respondent is a “supplier of water” within the meaning of Section 1401(5) of the SDWA, 42 U.S.C. §300f(5), and 40 C.F.R. §141.2.
3. Respondent is a “person” within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. §300f(12), and is subject to an Administrative Order (“AO”) issued under Section 1414(g)(1) of the SDWA, 42 U.S.C. §300g-3(g)(1).
4. Respondent provides piped water for human consumption and regularly serves a population of at least 25 individuals year-round, and is therefore a “community water system” as defined by Section 1401(15) of the SDWA, 42 U.S.C. §300f(15), and 40 C.F.R. §141.2. Respondent is therefore, subject to the requirements of Part B of the SDWA, 42 U.S.C. §300g et seq., and its implementing regulations found at 40 C.F.R. Part 141.

5. On January 4, 2006, EPA promulgated the Stage 2 Disinfectants and Disinfection Byproducts Rule ("Stage 2 DBPR"), regulated under 40 C.F.R. Part 141, Subparts U and V, to provide for increased public health protection against the potential risks for cancer and reproductive developmental health effects associated with disinfection byproducts ("DBPs"). The Stage 2 DBPR introduced a new method for calculating compliance with the maximum contaminant levels ("MCL") for total trihalomethanes ("TTHM") and haloacetic acids ("HAA5"), referred to as the locational running annual average ("LRAA").
6. The New York State Department of Health ("NYSDOH") administers the Public Water Supply Supervision Program in New York pursuant to Section 1413 of the SDWA. The approval of primary enforcement authority from EPA to the NYSDOH was effective as of September 9, 1977. However, the NYSDOH has not yet obtained primary enforcement responsibility for the Stage 2 DBPR. Therefore, as of the date of this Order, the USEPA has primary responsibility for enforcement of the Stage 2 DBPR.
7. Based on information obtained from the Safe Drinking Water Information System, Respondent serves 59,629 people.
8. Respondent serves between 50,000 and 99,999 people, therefore, Respondent was required to begin complying with the compliance monitoring provisions of the Stage 2 DBPR beginning October 1, 2012.
9. Pursuant to 40 C.F.R. §141.621(a), Respondent is required to monitor for TTHM and HAA5.
10. Pursuant to 40 C.F.R. §§141.64(b)(2) and 141.620(d), Respondent must calculate LRAAs for TTHM and HAA5 using monitoring results collected during the most recent four quarters and determine whether each LRAA exceeds the MCL.
11. Pursuant to 40 C.F.R. §141.64(b), the MCL for TTHM is 0.080 mg/L and for HAA5 is 0.060 mg/L.
12. Pursuant to 40 C.F.R. §141.64(b), the best available technology, treatment techniques or other means available for achieving compliance with the MCL for TTHM and HAA5 include removal of disinfection byproduct precursors through enhanced coagulation or enhanced softening, nanofiltration or granular activated carbon.
13. Based on information available to EPA, Respondent exceeded the MCL for HAA5 during the first, second and third quarters of 2019.
14. On March 28, 2019, EPA issued AO, Docket No. SDWA-02-2019-8026 (2019 AO) which required Respondent to, among other things, submit a Corrective Action Plan (CAP) to achieve compliance with the MCL for HAA5.
15. In letters dated June 7, 2019, August 14, 2019 and September 13, 2019, Respondent submitted schedules for corrective action including the construction of a Dissolved Air Flotation/Filtration (DAFF) plant to provide Respondent more control over removal of DBP

precursors and interim measures including additional raw water sampling, programmatic and automated flushing schemes, and a review and optimization of chlorine treatment to balance meeting contact time (CT) requirements and Stage 2 requirements.

16. EPA is issuing this AO to place the Respondent on an enforceable schedule to comply with the monitoring, reporting and MCL requirements of 40 C.F.R. Part 141, Subpart V and the SDWA.

III. ORDER

Based on the foregoing FINDINGS, and pursuant to the authority of Section 1414(g) of the SDWA, EPA hereby ORDERS:

Interim Measures

17. By January 31, 2020, Respondent must develop and submit, for review and approval, a written standardized flushing protocol detailing areas to be flushed, flushing frequencies, time of day for flushing and length of time for flushing. EPA, in consultation with NYSDOH and Westchester County Department of Health, will review the flushing protocol and upon notification by EPA, Respondent shall implement the flushing protocol.
18. By January 31, 2020, Respondent must complete and submit an evaluation of the effects of WJWWs proposal to lower tank elevations to reduce age of water on firefighting and peak demand capability.
19. By January 31, 2020, Respondent must evaluate dead end water mains and looping as proposed and submit a report summarizing the findings including identification of specific dead ends with potential impact on the areas that exceed the HAA5 MCL, and how the efforts will be focused on the identified dead ends.
20. By April 30, 2021, Respondent must develop and submit a project implementation time frame and prioritize the proposed looping of water mains in the areas of exceedance based on available data.

Long-term Measure

21. By December 31, 2019, Respondent must:
 - a. Complete site investigation steps for the Rye Lake Filtration Plant (“project”), including but not limited to: site viability evaluation, natural resources assessment, environmental site assessment, cultural resources assessment, and preliminary geotechnical evaluation.
 - b. Confirm land acquisition arrangements for the project.
22. By January 31, 2020, Respondent must commence:
 - a. Design of the project.
 - b. SEQR process.
23. By October 1, 2020, Respondent must:
 - a. Complete the SEQR process and submit the report.
 - b. Begin the project permitting process.

24. By January 1, 2022, Respondent must commence construction activities for the project.
25. By July 1, 2024, Respondent must complete construction and commence testing and commission of the water treatment.
26. By October 1, 2024, Respondent must complete project testing and commissioning steps.
27. By October 15, 2024, Respondent must submit certification to EPA, NYSDOH and WCDOH that the Rye Lake Filtration Project has been completed and that the plant is operational.

On-going Stage 2 Compliance Activities

28. Respondent shall conduct monitoring quarterly for TTHM and HAA5 in accordance with 40 C.F.R. §141.621(a) and its approved monitoring plan. Samples shall be analyzed in accordance with 40 C.F.R. §141.621(b). Respondent must calculate the LRAAs for TTHM and HAA5 using monitoring results collected, in accordance with 40 C.F.R. §141.620(d). Specifically, Respondent must calculate compliance with the MCL based on the available data from the most recent four quarters.
29. Respondent must comply with all public notice requirements specified in 40 C.F.R. Part 141, Subpart Q and continue to repeat quarterly until the violation has been resolved.
30. In addition to routine reporting to WCDOH, Respondent shall submit to EPA the results of the TTHM and HAA5 monitoring required by Paragraph 28. Results may be submitted with the quarterly progress reports described in paragraph 32. Respondent shall report quarterly to EPA until directed otherwise.
31. Respondent shall remain in compliance with all applicable requirements of the Stage 2 DBPR, including the TTHM and HAA5 monitoring requirements (40 C.F.R. §141.621), compliance determination requirements (40 C.F.R. §141.620), and reporting requirements (40 C.F.R. §141.629).

Progress Reports

32. Respondent must provide quarterly progress reports to EPA, NYSDOH and WCDOH describing actions taken during the previous quarter to address the violations identified in this AO. For milestones set forth in this AO, the report shall state whether Respondent has fully met the milestones and, if not, the work remaining to be completed to achieve compliance with the milestone; a description of any noncompliance, or known anticipated delay, and a statement of any corrective action taken or planned to be taken to address the noncompliance and/or or to minimize the delay. Upon the effective date of this ORDER, reports shall be submitted quarterly by January 15th, April 15th, July 15th, and October 15th until full compliance with this Order is achieved.
33. All notices, reports, or other submissions by Respondent shall contain the following certification:

“I certify, under penalty of law, that the information contained in or accompanying this submission is true, accurate and complete based upon representations as to accuracy and completeness made to me either orally or through submission of documentation by appropriate personnel with responsibility for the matters contained herein.”

34. All information required to be submitted by this Order shall be mailed to:

Nicole Foley Kraft, Chief
SDWA Compliance Section
U.S. Environmental Protection Agency-Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866
(212) 637-3093
kraft.nicole@epa.gov

and

Tina Hunt, Assistant Director
Bureau of Water Supply Protection
Center for Environmental Health
New York State Department of Health
Corning Tower, Room 1110
Empire State Plaza
Albany, NY 12237

and

Delroy Taylor, P.E., Assistant Commissioner, Environmental Health
Westchester County Department of Health
25 Moore Ave
Mt. Kisco, NY 10549

IV. GENERAL PROVISIONS

35. Notwithstanding Respondent's compliance with any requirement of this Order, Respondent's failure to comply with all of the requirements of the Act and Part 141 may subject Respondent to additional enforcement action, including but not limited to judicial, administrative and equitable actions.
36. EPA will give due consideration to any request by Respondents for modification of this ORDER based on, among other factors, applicable laws or regulations, science, technology or public health, or an act of God, war, terrorism, strike or judicial injunction, or any other event beyond the Respondents' control. Any request for a modification shall be submitted in writing by Respondents to EPA. No modification of this ORDER shall be made unless in writing and signed by the Director of the Enforcement and Compliance Assurance Division of Region 2. Whether or not a modification of this ORDER is made shall be in the sole discretion of EPA. Unless modified by EPA, all of the provisions of this ORDER shall remain in full force and effect.

37. This Administrative Order shall not prohibit, prevent, or otherwise preclude EPA from taking whatever action it deems appropriate to enforce the Act in any manner and shall not prohibit, prevent, or otherwise preclude EPA from using this Order in subsequent administrative or judicial proceedings. Nothing in this Order shall constitute a waiver, suspension or modification of the requirements of the Act, or the rules and regulations promulgated there under which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Law.
38. The Respondent may be subject to an administrative civil penalty of up to \$39,936 pursuant to Section 1414(g)(3)(B) of the Act, 42 U.S.C. §300g-3(g)(3)(B) or a civil penalty assessed by an appropriate United States District Court that exceeds \$39,936 pursuant to Section 1414(g)(3)(C) of the Act, 42 U.S.C. §300g-3(g)(3)(C). A violation of any term of this Order may also subject the Respondent to a judicial civil penalty of up to \$57,317 per day of violation pursuant to Section 1414(b) of the Act, 42 U.S.C. §300g-3(b).
39. Respondent may seek federal judicial review of the Order pursuant to Section 1448(a) of the Act, 42 U.S.C. §300j-7(a).
40. This Order does not relieve Respondent of any responsibilities or liabilities established pursuant to any applicable federal, State or local law.
41. This Administrative Order shall take effect upon the signature of the Director, Enforcement and Compliance Assurance Division.

ORDERED, this _____ day of **NOV 26**, 2019.


Dore LaPosta, Director
Enforcement and Compliance Assurance Division